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भारत का राजपत्र
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No. 48] NEW DELHI, NOVEMBER 26—DECEMBER 2, 2017, SATURDAY/ AGRAHAYANA 5—AGRAHAYANA 11, 1939

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(खाद्य और सार्वजनिक वितरण विभाग)

नई दिल्ली, 28 नवम्बर, 2017

का.आ. 2680.—केन्द्रीय सरकार राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय (खाद्य और सार्वजनिक वितरण विभाग) के प्रशासनिक नियंत्रणाधीन निम्नलिखित कार्यालयों, जिनके 80 प्रतिशत से अधिक कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को राजपत्र में अधिसूचित करती है:-

1. भारतीय खाद्य निगम,
   जिला कार्यालय, सनत नगर,
   हैदराबाद

2. भारतीय खाद्य निगम,
   जिला कार्यालय,
   हुबली (कर्नाटक)

3. भारतीय खाद्य निगम,
जिला कार्यालय,
रायचूर (कर्नाटक)

4. भारतीय खाद्य निगम,
जिला कार्यालय,
भिामोगा (कर्नाटक)

[सं. ई-11011/1/2008-हिन्दी]

कमल दत्ता, संयुक्त सचिव

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Food and Public Distribution)

New Delhi, the 28th November, 2017

S.O. 2680.—In pursuance of Sub-rule (4) of rule 10 of the Official Language (use for official purpose of the Union) Rules, 1976 the Central Government hereby notifies the following offices under the administrative control of the Ministry of consumenr Affairs. Food & Public Distribution (Deptt. of Food & Public Distribution), where of more than 80% of staff have acquired the working knowledge of Hindi. :

1. Food Corporation of India,
District Office, Sanath Nagar,
Hyderabad

2. Food Corporation of India,
District Office,
Hubli (Karnataka)

3. Food Corporation of India,
District Office,
Raichur (Kanataka)

4. Food Corporation of India,
District Office,
Shimoga (Karnataka)

[No. E-11011/1/2008-Hindi]

KAMAL DUTTA, Jt. Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य और परिवार कल्याण विभाग)

नई दिल्ली, 5 सितम्बर, 2017

का.आ. 2681.—भारतीय आयुर्विज्ञान परिषद् अधिनियम 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार, भारतीय आयुर्विज्ञान परिषद् से परामर्श करके उक्त अधिनियम की प्रथम अनुसूची में, निम्नलिखित और संशोधन करती है; अर्थात:-

उक्त प्रथम अनुसूची में "रानी दुर्गावती विश्वविद्यालय, जबलपुर" से पूर्व "मध्य प्रदेश स्वास्थ्य विज्ञान विश्वविद्यालय, जबलपुर" जोड़ा जाएगा और मान्यताप्राप्त आयुर्विज्ञान अर्हता [जिसे इसके आगे कालम (2) कहा गया है] शीर्षक के अधीन अंतिम प्रविष्टि के पश्चात् और "पंजीकरण के लिए संक्षिप्तिकरण" [जिसे इसके आगे कालम (3) कहा गया है] से संबंधित प्रविष्टि के संबंध में "मध्य प्रदेश स्वास्थ्य विज्ञान विश्वविद्यालय, जबलपुर" के समक्ष निम्नलिखित अंत:स्थापित किया जाएगा, अर्थात् :-

(2)	(3)
"डॉक्टर ऑफ मेडिसिन (एनिस्थिसियॉलोजी)"	एमडी (एनिस्थिसियॉलोजी)
"डॉक्टर ऑफ मेडिसिन (जनरल मेडिसिन)"	एमडी (जनरल मेडिसिन)
"डॉक्टर ऑफ मेडिसिन (पेडियॉट्रिक्स)"	एमडी (पेडियॉट्रिक्स)
"डॉक्टर ऑफ मेडिसिन (पैथॉलोजी)"	एमडी (पैथॉलोजी)
"डॉक्टर ऑफ मेडिसिन (फार्माकॉलोजी)"	एमडी (फार्माकॉलोजी)
"डॉक्टर ऑफ मेडिसिन (फिजियॉलोजी)"	एमडी (फिजियॉलोजी)
"डॉक्टर ऑफ मेडिसिन (रेडियो डायग्नोसिस/रेडियॉलाजी)"	एमडी (रेडियो डायग्नोसिस/रेडियॉलाजी)
"डॉक्टर ऑफ मेडिसिन (रेडियोथेरेपी)"	एमडी (रेडियोथेरेपी)
"डॉक्टर ऑफ मेडिसिन (सोशल एंड प्रिवेंटिव मेडिसिन/ कम्युनिटी मेडिसिन)"	एमडी (सोशल एंड प्रिवेंटिव मेडिसिन/कम्युनिटी मेडिसिन)
"डॉक्टर ऑफ मेडिसिन/मास्टर ऑफ सर्जरी (अनॉटमी)"	एमडी/एमएस (अनॉटमी)
"डॉक्टर ऑफ मेडिसिन/मास्टर ऑफ सर्जरी (ऑब्सटेट्रिक्स एंड गायनेकालोजी)"	एमडी/एमएस (ऑब्सटेट्रिक्स एंड गायनेकालोजी)
"डॉक्टर ऑफ मेडिसिन/मास्टर ऑफ सर्जरी (आफ्थालमोलोजी)"	एमडी/एमएस (आफ्थालमोलोजी)
"मास्टर ऑफ सर्जरी (ईएनटी)"	एमएस (ईएनटी)
"मास्टर ऑफ सर्जरी (जनरल सर्जरी)"	एमएस (जनरल सर्जरी)
"मास्टर ऑफ सर्जरी (ऑर्थोपीडिक्स)"	एमएस (ऑर्थोपीडिक्स)

उपर्युक्त स्नातकोत्तर डिग्री कोर्स 'मान्यताप्राप्त आयुर्विज्ञान अर्हता होगी जब यह नेता जी सुभाष चन्द्र बोस मेडिकल कॉलेज, जबलपुर में जुलाई, 2017 को या उसके पश्चात् प्रशिक्षित किए गए छात्रों के संबंध में "मध्य प्रदेश स्वास्थ्य विज्ञान विश्वविद्यालय, जबलपुर" द्वारा प्रदत्त होगी ।

नोट: 1. स्नातकोत्तर पाठ्यक्रम को दी गई ऐसी मान्यता अधिकतम 5 वर्ष के लिए होगी और उसके बाद इसका नवीकरण करवाना होगा।

2. मान्यता के 'नवीकरण' की प्रक्रिया वही होगी जो मान्यता प्रदान करने के लिए लागू होती है।

3. अपेक्षित मान्यता का समय से नवीकरण करवाने में विफल रहने के परिणाम स्वरूप, निरपवाद रूप से संबंधित स्नातकोत्तर पाठ्यक्रम में प्रवेश बंद हो जाएगा।

[फा. सं. यू-12012/114/2016-एमई. I]

डी. वी. के. राव, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

New Delhi, the 5th September, 2017

S.O. 2681.—In exercise of the powers conferred by sub-section (2) of the section 11 of the Indian Medical Council Act, 1956(102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, due to change of affiliating University namely:-

In the said First Schedule before " Rani Durgawati Vishwa Vidyalaya, Jabalpur" and entries thereto "Madhya Pradesh Medical Science University, Jabalpur" shall be added and against "Madhya Pradesh Medical Science University, Jabalpur" under the heading 'Recognized Medical Qualification' [hereinafter referred to as column (2)] after the last entry and entry relating thereto under the heading 'Abbreviation for Registration"[hereinafter referred to as column (3)], the following shall be inserted namely:-

(2)	(3)
"Doctor of Medicine (Anaesthesiology)"	MD (Anaesthesiology)
"Doctor of Medicine (General Medicine)"	MD (General Medicine)
"Doctor of Medicine (Paediatrics)"	MD (Paediatrics)
"Doctor of Medicine (Pathology)"	MD (Pathology)
"Doctor of Medicine (Pharmacology)"	MD (Pharmacology)
"Doctor of Medicine (Physiology)"	MD (Physiology)
"Doctor of Medicine (Radio Diagnosis/Radiology)"	MD (Radio Diagnosis/Radiology)
"Doctor of Medicine (Radiotherapy)"	MD (Radiotherapy)
"Doctor of Medicine (Social & Preventive Medicine/ Community Medicine)"	MD (Social & Preventive Medicine/ Community Medicine)
"Doctor of Medicine/ Master of Surgery (Anatomy)"	MD/MS (Anatomy)
"Doctor of Medicine / Master of Surgery (Obstetrics & Gynaecology)"	MD/MS (Obstetrics & Gynaecology)
"Doctor of Medicine/ Master of Surgery (Ophthalmology)"	MD/MS (Ophthalmology)
"Master of Surgery (ENT)"	MS (ENT)
"Master of Surgery (General Surgery)"	MS (General Surgery)
"Master of Surgery (Orthopaedics)"	MS (Orthopaedics)

The above PG Degree courses shall be a recognized medical qualification when granted by "Madhya Pradesh Medical Science University, Jabalpur" in respect of students being trained at Netaji Subhash Chandra Bose Medical College, Jabalpur on or after July, 2017.

Note: 1. The recognition so granted to a Postgraduate Course shall be for a maximum period of 5 years, upon which it shall have to be renewed.

2. The procedure for 'Renewal' of recognition shall be same as applicable for the award of recognition.

3. Failure to seek timely renewal of recognition as required shall invariably result in stoppage of admissions to the concerned Postgraduate Course.

[F. No. U-12012/114/2016-ME-I]

D. V. K. RAO, Under Secy.

नई दिल्ली, 27 सितम्बर, 2017

का.आ. 2682.—भारतीय आयुर्विज्ञान परिषद् अधिनियम 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार, भारतीय आयुर्विज्ञान परिषद् से परामर्श करके उक्त अधिनियम की प्रथम अनुसूची में, निम्नलिखित और संशोधन करती है; अर्थात् :-

उक्त प्रथम अनुसूची में "देवी अहिल्या विश्वविद्यालय, इंदौर" से पूर्व "मध्य प्रदेश स्वास्थ्य विज्ञान विश्वविद्यालय, जबलपुर" जोड़ा जाएगा और 'मान्यताप्राप्त आयुर्विज्ञान अर्हता' [जिसे इसके आगे कालम (2) कहा गया है] शीर्षक के अधीन अंतिम प्रविष्टि के पश्चात् और "पंजीकरण के लिए संक्षिप्तिकरण" [जिसे इसके आगे कालम (3) कहा गया है] से संबंधित प्रविष्टि के संबंध में "मध्य प्रदेश स्वास्थ्य विज्ञान विश्वविद्यालय, जबलपुर" के समक्ष निम्नलिखित अंत:स्थापित किया जाएगा, अर्थात् :-

(2)	(3)
"डॉक्टर ऑफ मेडिसिन/मास्टर ऑफ सर्जरी (ऑब्सटेट्रिक्स एंड गायनेकालोजी)"	एमडी/एमएस (ऑब्सटेट्रिक्स एंड गायनेकालोजी)
"डॉक्टर ऑफ मेडिसिन/मास्टर ऑफ सर्जरी (आफ्थालमोलोजी)"	एमडी/एमएस (आफ्थालमोलोजी)
"मास्टर ऑफ सर्जरी (ईएनटी)"	एमएस (ईएनटी)
"मास्टर ऑफ सर्जरी (जनरल सर्जरी)"	एमएस (जनरल सर्जरी)
"मास्टर ऑफ सर्जरी (ऑर्थोपीडिक्स)"	एमएस (ऑर्थोपीडिक्स)

उपर्युक्त स्नातकोत्तर डिग्री कोर्स 'मान्यताप्राप्त आयुर्विज्ञान अर्हता होगी जब यह श्री अरबिंदो मेडिकल कॉलेज व स्नातकोत्तर संस्थान, इंदौर में जुलाई 2017 को या उसके पश्चात् प्रशिक्षित किए गए छात्रों के संबंध में "मध्य प्रदेश स्वास्थ्य विज्ञान विश्वविद्यालय, जबलपुर" द्वारा प्रदत्त होगी ।

नोट: 1. स्नातकोत्तर पाठ्यक्रम को दी गई ऐसी मान्यता अधिकतम 5 वर्ष के लिए होगी और उसके बाद इसका नवीकरण करवाना होगा।

2. मान्यता के 'नवीकरण' की प्रक्रिया वही होगी जो मान्यता प्रदान करने के लिए लागू होती है।

3. अपेक्षित मान्यता का समय से नवीकरण करवाने में विफल रहने के परिणाम स्वरूप, निरपवाद रूप से संबंधित स्नातकोत्तर पाठ्यक्रम में प्रवेश बंद हो जाएगा।

[फा. सं. यू-12012/114/2016-एमई.-I]

डी. वी. के. राव, अवर सचिव

New Delhi, the 27th September, 2017

S.O. 2682.—In exercise of the powers conferred by sub-section (2) of the section 11 of the Indian Medical Council Act, 1956(102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, due to change of affiliating University namely:-

In the said First Schedule before "Devi Ahilya Vishwa Vidyalaya" and entries thereto "Madhya Pradesh Medical Science University, Jabalpur" shall be added and against "Madhya Pradesh Medical Science University, Jabalpur" under the heading 'Recognized Medical Qualification' [hereinafter referred to as column (2)] after the last entry and entry relating thereto under the heading 'Abbreviation for Registration"[hereinafter referred to as column (3)], the following shall be inserted namely:-

(2)	(3)
"Doctor of Medicine/Master of Surgery(Obstetrics & Gynaecology)"	MD/MS (OBG)
"Doctor of Medicine/Master of Surgery (Ophthalmology)"	MD/MS (Ophthalmology)
"Master of Surgery (ENT)"	MS (ENT)
"Master of Surgery (General Surgery)"	MS (General Surgery)
"Master of Surgery (Orthopaedics)"	MS (Orthopaedics)

The above PG Degree course shall be a recognized medical qualification when granted by "Madhya Pradesh Medical Science University, Jabalpur" in respect of students being trained at Sri Aurobindo Medical College and PG Institute, Indore on or after July 2017).

Note: 1. The recognition so granted to a Postgraduate Course shall be for a maximum period of 5 years, upon which it shall have to be renewed.
2. The procedure for 'Renewal' of recognition shall be same as applicable for the award of recognition.
3. Failure to seek timely renewal of recognition as required shall invariably result in stoppage of admissions to the concerned Postgraduate Course.

[No. U-12012/114/2016-ME-I]

D. V. K. RAO, Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 11 अक्तूबर, 2017

का.आ. 2683.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया हैं) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 3175 तारीख 9 दिसम्बर, 2014, जो भारत के राजपत्र तारीख 13 दिसम्बर, 2014, में प्रकाशित की गई थी द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उत्तर प्रदेश राज्य में जिला देवरिया में पटना–मोतिहारी–बैतालपुर तक पेट्रोलियम परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार के अर्जन के अपने आशय की घोषणा की थी :

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 11 मई, 2015 तक उपलब्ध करा दी गई थी ;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को रिपोर्ट दे दी है ;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाए ;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाए, सभी विल्लंगमों से मुक्त होकर इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगी।

पेट्रोलियम और खनिज पाइपलाइन अधिनियम, 1962 की धारा 10 के अधीन किसी भी क्षतिपूर्ति के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड पूर्णतया उत्तरदायी होगी और पाईपलाईन से सम्बन्धित किसी भी मामले पर केन्द्रीय सरकार के विरुद्ध कोई वाद दावा या कानूनी कार्यवाही नहीं हो सकेगी।

अनुसूची

तहसील : भाटपर रानी	जिला : देवरिया		राज्य : उत्तर प्रदेश		
मौजा /ग्राम	सर्वे / ब्लाक / सं. (प्लोट सं.)	सब-डीव-सं..	क्षेत्रफल		
			हेक्टेयर	आरे	वर्ग मीटर
1	2	3	4	5	6
पिपरा विठल	नदी		00	04	32
	913		00	00	33
	914		00	10	80
	912		00	01	38
	911		00	00	90
लाल चक	329		00	05	04
तप्पा : घाटी	328		00	07	02
	326		00	10	08
	327		00	07	56

	324		00	04	86
	323		00	03	20
जोगउर	120		00	11	02
तप्पा : हवेली					
बड़कागाँव	679		00	03	67
तप्पा : हवेली					
जसुइ	300		00	06	81
तप्पा : हवेली					
भठही जमीन	40		00	00	56
तप्पा : बलिवन . 17	33		00	00	23
	39		00	05	88
	30		00	07	02
	29		00	00	54
	28		00	01	02
	22		00	09	54
	27		00	02	73
	23		00	03	52
	24		00	05	49
	25		00	02	52
	26		00	01	96
	21		00	00	70
	20		00	01	04

[फा. सं. आर-25011/23/2013-ओआर-I/35470]

पवन कुमार, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 11th October, 2017

S.O. 2683.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 3175 dated the 9th December, 2014, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), published in the Gazette of India dated the 13th December, 2014 the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying 'Patna – Motihari - Baitalpur Pipeline Project' for the transportation of Petroleum Products in Deoria District in the state of Uttar Pradesh by Indian Oil Corporation Limited;

And whereas copies of the said Gazette notification were made available to the public up to 11th May 2015.

And whereas the competent authority has under sub-section (1) of section 6 of the said Act submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of the declaration, in Indian Oil Corporation Limited, free from all encumbrances.

Indian Oil Corporation Limited shall be exclusively liable for any compensation in terms of Section 10 of the P & MP Act, 1962 and no suit, claim or legal proceeding would lie against the Central Government on any matter relating to the pipeline.

SCHEDULE

Tehsil :Bhatpar Rani	District : Deoria		State : Uttar Pradesh		
Mouja / Village	Survey/Block No.	Sub-Div-No.	Area		
			Hectare	Are	Sq.mtr.
1	2	3	4	5	6
PIPRA BITHAL	RIVER		00	04	32
	913		00	00	33
	914		00	10	80
	912		00	01	38
	911		00	00	90
LAL CHAK	329		00	05	04
Tappa : Ghati	328		00	07	02
	326		00	10	08
	327		00	07	56
	324		00	04	86
	323		00	03	20
JOGAUR	120		00	11	02
Tappa : Haweli					
BADKA GAON	679		00	03	67
Tappa : Haweli					
JASUI	300		00	06	81
Tappa : Haweli					
BHATAHI JAMIN	40		00	00	56
Tappa : Balivan No.17	33		00	00	23
	39		00	05	88
	30		00	07	02
	29		00	00	54
	28		00	01	02
	22		00	09	54
	27		00	02	73
	23		00	03	52
	24		00	05	49
	25		00	02	52
	26		00	01	96
	21		00	00	70
	20		00	01	04

[F. No. R-25011/23/2013-OR-I/35470]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 16 अक्तूबर, 2017

का.आ. 2684.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया हैं) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 3176 तारीख 9 दिसम्बर 2014, जो भारत के राजपत्र तारीख 13 दिसम्बर 2014, में प्रकाशित की गई थी द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उत्तर प्रदेश राज्य में जिला देवरिया में पटना–मोतिहारी–बैतालपुर तक पेट्रोलियम परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार के अर्जन के अपने आशय की घोषणा की थी :

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 11 मई, 2015 तक उपलब्ध करा दी गई थी ;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को रिपोर्ट दे दी है ;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाए ;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाए, सभी विल्लंगमों से मुक्त होकर इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगी।

पेट्रोलियम और खनिज पाइपलाइन अधिनियम, 1962 की धारा 10 के अधीन किसी भी क्षतिपूर्ति के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड पूर्णतया उत्तरदायी होगी और पाइपलाइन से सम्बन्धित किसी भी मामले पर केन्द्रीय सरकार के विरुद्ध कोई वाद दावा या कानूनी कार्यवाही नहीं हो सकेगी।

अनुसूची

तहसील : देवरिया	जिला : देवरिया		राज्य : उत्तर प्रदेश		
मौजा /ग्राम	सर्वे / ब्लाक / सं. (प्लाट सं.)	सब-डीव-सं..	क्षेत्रफल		
			हेक्टेयर	आरे	वर्ग मीटर
1	2	3	4	5	6
कुसम्हा उर्फ बेलवा	151		00	00	36
तप्पा : कचुआर	179		00	11	52
	182 अ		00	18	90
रामपुर	207		00	02	52
तप्पा : कचुआर	206 ब		00	01	68
	206 अ		00	09	72
	199		00	21	24
	198		00	00	12
	197		00	02	52
	194		00	00	55
	193		00	01	56
	186		00	00	72
	191		00	03	08
	190		00	14	04
	189		00	00	04
	188		00	09	00
	185		00	01	32

	181		00	00	04
	83		00	02	10
	66		00	01	54
	67		00	00	46
	70 अ		00	05	94
	70 ब		00	12	24
	71		00	03	15
	74 ब		00	21	78
	74 अ		00	06	15
	77		00	01	26

[फा. सं. आर-25011/23/2013-ओआर-I/35470]

पवन कुमार, अवर सचिव

New Delhi, the 16th October, 2017

S.O. 2684.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 3176 dated the 9th December, 2014, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), published in the Gazette of India dated the 13th December, 2014 the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying 'Patna – Motihari - Baitalpur Pipeline Project' for the transportation of Petroleum Products in Deoria District in the state of Uttar Pradesh by Indian Oil Corporation Limited;

And whereas copies of the said Gazette notification were made available to the public up to 11th May 2015.

And whereas the competent authority has under sub-section (1) of section 6 of the said Act submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of the declaration, in Indian Oil Corporation Limited, free from all encumbrances.

Indian Oil Corporation Limited shall be exclusively liable for any compensation in terms of Section 10 of the P & MP Act, 1962 and no suit, claim or legal proceeding would lie against the Central Government on any matter relating to the pipeline.

SCHEDULE

Tehsil : Deoria	District : Deoria		State : Uttar Pradesh		
Mouja / Village	Survey/Block No.	Sub-Div-No.	Area		
			Hectare	Are	Sq.mtr.
1	2	3	4	5	6
KUSMAHA URF	151		00	00	36
BELWA	179		00	11	52
Tappa : Kachuar	182 A		00	18	90

RAMPUR	207		00	02	52
Tappa : Kachuar	206 B		00	01	68
	206 A		00	09	72
	199		00	21	24
	198		00	00	12
	197		00	02	52
	194		00	00	55
	193		00	01	56
	186		00	00	72
	191		00	03	08
	190		00	14	04
	189		00	00	04
	188		00	09	00
	185		00	01	32
	181		00	00	04
	83		00	02	10
	66		00	01	54
	67		00	00	46
	70 A		00	05	94
	70 B		00	12	24
	71		00	03	15
	74 B		00	21	78
	74 A		00	06	15
	77		00	01	26

[F. No. R-25011/23/2013-OR-I/35470]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 21 नवम्बर, 2017

का.आ. 2685.—केन्द्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि ''पटना – मोतिहारी – बैतालपुर भााखा पाइपलाइन'' के अंतर्गत पेट्रोलियम पदार्थो के परिवहन हेतु जिला पुर्वी चम्पारण, राज्य बिहार में इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए ।

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए आवश्यक प्रतीत होता है कि उस भूमि में जिसके भीतर उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है।

कोई व्यक्ति, जो उक्त अनुसूचि में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको, भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के अन्दर, भूमि के भीतर पाइपलाइन बिछाए जाने हेतु उपयोग के अधिकार के अर्जन के लिए, श्री जगदीश प्रसाद सिंह, बि.प्र.से. व सक्षम प्राधिकारी इंडियन ऑयल कॉर्पोरेशन लिमिटेड, (पाइपलाइन्स डिवीजन) पटना, पी॰एम॰बी॰पी॰एल॰ नीशी कुंज, बसंत विहार कॉलोनी, बोरिंग रोड जिला पटना, पिनः 800001, बिहार को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

जिला : पुर्वी चम्पारण				राज्य : बिहार	
मौजा /ग्राम	सर्वे / ब्लोक / सं. (प्लोट सं.)	सब–डीव– सं.	क्षेत्रफल		
			हेक्टयर	आरे	वर्ग मीटर
1	2	3	4	5	6
बिसरामपुर दुबौलिया थाना नं0–206	473		00	01	93
हुसेनी थाना नं0–245	3082		00	13	01
सेम्भुआपुर	1244		00	09	48
थाना नं0–36	1241		00	01	31
	1240		00	01	11
	1239		00	05	15
नवाडा थाना नं0–180	1885		00	09	91
मिसीर टोला थाना नं0–163	365		00	02	39
लोहियार उज्जैन	1762		00	25	19
थाना नंबर–133	1729		00	00	26
	1730		00	12	03
	2752		00	03	15
	2761		00	19	63
	2597		00	06	05
जयसिंहपुर	4538		00	20	02
थाना नंबर–85	4541		00	03	26
	4540		00	01	38
	4539		00	07	21
	4536		00	11	40
	4464		00	16	35
	4023		00	12	49
	2461 / 6829		00	05	91
	2387		00	26	16
	2461		00	00	20
	2462		00	02	31
	2463		00	04	01
	2367		00	13	04
	2360		00	28	97
	2361		00	00	40
	2359		00	00	20
	2358		00	00	31

	489		00	16	06
	490		00	01	01
	768		00	10	94
बेलवा राय टोला बैरागी थाना नंबर—72	285		00	05	51
छपरा भास थाना नंबर—56	6437		00	04	65
	6405		00	04	49
	7386		00	03	95
	6500		00	05	89
	5979		00	10	27
	5978		00	11	02
	5980		00	10	45
	5981		00	01	62
	5998		00	10	74
	6000		00	00	24
	5999		00	10	50
	6001		00	07	30
	6005		00	00	24
	8183		00	00	37
	6002		00	05	72
	6003		00	00	28
	6024		00	00	24
	6019		00	24	33
	6021		00	05	33
	6020		00	21	85
	5819		00	07	80
	5818		00	00	92
	5820		00	00	53
	5821		00	00	24
	5824		00	09	48
	5788		00	03	24
	5825		00	04	27
	5826		00	00	84
	5831		00	04	13
	5832		00	00	24
	5833		00	00	24
	5830		00	09	25
	5835		00	09	79

[फा. सं. आर-11025(11)/196/2017-ओआर-I/ई-9925]

पवन कुमार, अवर सचिव

New Delhi, the 21st November, 2017

S.O. 2685.—Whereas it appears to the Central Government that it is necessary in the public interest that a pipeline should be laid by the Indian Oil Corporation Limited in Dist. East Champaran in the State of Bihar for "Patna - Motihari - Baitalpur Branch Pipeline'' for the transportation of Petroleum Product;

And, whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty one days from the date on which the copies of the notification issued under sub-section (1) of Section 3 of the said Act, as published in the Gazette of India are made available to the general public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land, to Shri Jagdish Prasad Singh, B.A.S. & Competent Authority, Indian Oil Corporation Limited. (Pipelines Division) PMBPL Nishi Kunj, Basant Bihar Colony, Boring Road, Dist. Patna (Bihar.) Pin – 800001.

SCHEDULE

District : East Champaran				State : Bihar	
Mouja / Village	Survey/Block/No.	Sub-Div-No.	Area		
			Hectare	Are	Sq.mtr.
1	2	3	4	5	6
Bishrampur Dubauliya Thana No.-206	473		00	01	93
Huseni Thana No.-245	3082		00	13	01
Shembhuapur Thana No.-36	1244 1241 1240 1239		00 00 00 00	09 01 01 05	48 31 11 15
Nawada Thana No.-180	1885		00	09	91
Misir Tola Thana No.-163	365		00	02	39
Lohiyar Ujjain Thana No.-133	1762 1729 1730 2752 2761 2597		00 00 00 00 00 00	25 00 12 03 19 06	19 26 03 15 63 05
Jaisinghapur Thana No.-85	4538 4541 4540 4539 4536		00 00 00 00 00	20 03 01 07 11	02 26 38 21 40

	4464		00	16	35
	4023		00	12	49
	2461/6829		00	05	91
	2387		00	26	16
	2461		00	00	20
	2462		00	02	31
	2463		00	04	01
	2367		00	13	04
	2360		00	28	97
	2361		00	00	40
	2359		00	00	20
	2358		00	00	31
	489		00	16	06
	490		00	01	01
	768		00	10	94
Belwa Ray Tola Bairagi Thana No.-72	285		00	05	51
Chhapra Bahas Thana No.-56	6437		00	04	65
	6405		00	04	49
	7386		00	03	95
	6500		00	05	89
	5979		00	10	27
	5978		00	11	02
	5980		00	10	45
	5981		00	01	62
	5998		00	10	74
	6000		00	00	24
	5999		00	10	50
	6001		00	07	30
	6005		00	00	24
	8183		00	00	37
	6002		00	05	72
	6003		00	00	28
	6024		00	00	24
	6019		00	24	33
	6021		00	05	33
	6020		00	21	85
	5819		00	07	80
	5818		00	00	92
	5820		00	00	53
	5821		00	00	24

	5824		00	09	48
	5788		00	03	24
	5825		00	04	27
	5826		00	00	84
	5831		00	04	13
	5832		00	00	24
	5833		00	00	24
	5830		00	09	25
	5835		00	09	79

[F. No. R-11025(11)/196/2017-OR-I/E-9925]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 22 नवम्बर, 2017

का.आ. 2686.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50)(जिसे इसमे इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गयी भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 1412(अ), तारीख 7 अप्रैल 2016, जो भारत के राजपत्र तारीख 13 अप्रैल 2016, में प्रकाशित की गयी थी द्वारा उस अधिसूचना से संलग्न अनुसूची मे विनिर्दिष्ट भूमि में उत्तर प्रदेश राज्य मे भारतीय रेलवे के डी.एफ.सी. के लिये बी.के.पी.एल. के मुगलसराय और कानपुर के बीच खंड शिफ्टिंग हेतु क्षेत्र -ए (प्रस्थापित पाइपलाईन चैनेज 316.037 से 335.478 तक जिला – मिर्जापुर) में पेट्रोलियम परिवहन के लिये इंडियन ऑयल कार्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाने के प्रायोजन के लिये उपयोग के अधिकार के अर्जन के अपने आशय की घोषणा की थी ;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 1 जून 2017 तक उपलब्ध करा दी गयी थी;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा(1) के अधीन केंन्द्रीय सरकार को रिपोर्ट दे दी है ;

और केंद्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात और यह समाधान हो जाने पर कि उक्त भूमि पाइप लाइन बिछाने के लिये अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया हैं ;

अत: अब केंद्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियो का प्रयोग करते हुये यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची मे विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिये उपयोग के अधिकार का अर्जन किया जाये ;

और केंद्रीय सरकार उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियो का प्रयोग करते हुए ,यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केंद्रीय सरकार में निहित होने के बजाय, सभी विल्लंगमो से मुक्त होकर इंडियन ऑयल कार्पोरेशन लिमिटेड मे निहित होगी।

पेट्रोलियम और खनिज पाइपलाइन अधिनियम, 1962 की धारा 10 के अधीन किसी भी क्षतिपूर्ति के लिये इंडियन ऑयल कार्पोरेशन लिमिटेड पूर्णतया उत्तरदायी होगी और पाइपलाइन से सम्बंधित किसी भी मामले पर केंद्रीय सरकार के विरुद्ध कोई वाद दावा या कानूनी कार्यवाही नहीं हो सकेगी।

अनुसूची

तहसील: चुनार	जिला : मिर्ज़ापुर	राज्य : उत्तर प्रदेश		
गांव का नाम	खसरा नं.	क्षेत्रफल		
		हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5
दिक्षितपुर	335	00	05	95
सोनई	239	00	03	15

	258	00	01	69
	264	00	03	58
	221	00	01	40
वरीजीवनपुर	830	00	01	72
कटका	274	00	01	06
	263	00	01	49
	269	00	00	14

[फा. सं. आर-11025(11)/247/2017-ओआर-I/ई-17991]

पवन कुमार, अवर सचिव

New Delhi, the 22nd November, 2017

S.O. 2686.—Whereas, by the notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 1412(E), dated the 7Th April, 2016, issued under sub section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act) , published in the Gazette of India dated the 13th April 2017 ,the Central Government declared its intention to acquire the right of user in the land specified in the schedule appended to that notification for the purpose of laying pipeline for the " Shifting of Barauni –Kanpur pipeline between Mugalsarai and Kanpur for DFCCIL of Indian Railway in Part A (from Existing P/L Ch. 316.037 TO 335.478 KM In District- Mirzapur)" by Indian oil corporation limited for the transportation of petroleum products ;

And whereas copies of said Gazette notification were made available to the public up to 1 June 2017;

And whereas the competent Authority has under sub-section (1) of section 6 of the said act submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire right of user therein;

Now therefore in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the schedule appended to this notification is hereby acquired for laying the pipeline ;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of the declaration, in Indian Oil Corporation limited, free from all encumbrances.

Indian Oil Corporation limited shall be exclusively liable for any compensation in terms of section 10 of the P&MP Act, 1962 and no suit, claim or legal proceedings would lie against the Central Government on any matter relating to the pipeline.

SCHEDULE

TEHSIL: CHUNAR	DISTRICT: MIRZAPUR	STATE: UTTAR PRADESH		
Name of Village	Khasra No.	Area		
		Hectare	Are	Sq. Mt.
1	2	3	4	5
DIXITPUR	335	00	05	95
SONAI	239	00	03	15

	258	00	01	69
	264	00	03	58
	221	00	01	40
VARIJIVANPUR	830	00	01	72
KATKA	274	00	01	06
	263	00	01	49
	269	00	00	14

[F. No. R-11025(11)/247/2017-OR-I/E-17991]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 24 नवम्बर, 2017

का.आ. 2687.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइंस (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 उप धारा (1) के अधीन जारी की गई, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना जिसका प्रकाशन भारत के राजपत्र संख्या 27 दिनांक 08.07.2017 का.आ. संख्या 1582 दिनांक 22.06.2017, भाग II, खण्ड 3, उप-खण्ड (ii) में किया गया है। इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट हिमाचल राज्य की तहसील उना तथा हरोली, जिला उना की भूमि में, पंजाब राज्य में गाँव : झुगियां, पेखुबेला : शहीद भगत सिंह नगर से हिमाचल प्रदेश के गाँव : जिला, उना तक पेट्रोलियम उत्पादों के परिवहन के लिए इंडियन ऑयल कारपोरेशन लिमिटेड द्वारा जिला, उना ब्रांच पाइपलाइन-पीएजेपील परियोजना के सम्बन्ध में पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के लिए आशय की घोषणा की थी ।

और उक्त राजपत्र अधिसूचनाओं की प्रतियाँ जनता को तारीख 22.09.2017 तक उपलब्ध करा दी गई थी।

और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी ने केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है।

और केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है।

अत: अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के उपयोग का अधिकार अर्जित किया जाए।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाय सभी विल्लंगमों से मुक्त होकर इंडियन ऑयल कार्पोरेशन लिमिटेड में निहित होगा।

पेट्रोलियम और खनिज पाइपलाइन अधिनियम 1962 की धारा 10 के अधीन किसी भी क्षतिपूर्ति के लिए इंडियन ऑयल कार्पोरेशन लिमिटेड पूर्णतया उत्तरदायी होगी और पाइपलाईन से सम्बन्धित किसी भी मामलें पर केन्द्रीय सरकार के विरुद्ध कोई वाद दावा या कानूनी कार्यवाही नहीं हो सकेगी।

अनुसूची

जिला : उना राज्य : हिमाचल प्रदेश

क्र.सं.	तहसील का नाम	गाँव का नाम	हदबस्त नं	खसरा सं.	क्षेत्रफल		
					हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5	6	7	8
1	हरोली	थेह	471	2481 रास्ता	00	00	71
				2126	00	01	18
				2127	00	00	21

2128	00	01	57
2129	00	01	25
2136	00	08	22
2135	00	02	01
2138	00	00	34
2150	00	00	20
2139	00	00	24
2140	00	03	45
2149	00	00	20
2141	00	00	68
2142	00	06	23
2143	00	00	71
2144	00	00	37
2145	00	01	52
2445	00	09	30
2442	00	00	23
2443	00	00	29
2444	00	00	67
2440 रास्ता	00	00	66
2260	00	01	09
2358	00	03	12
2262	00	01	33
2357	00	00	91
2356	00	06	89
2355	00	00	88
2354	00	02	47
2292	00	00	75
2291	00	00	20
2290	00	00	20
2293	00	02	82
2294	00	00	20
2296	00	00	20
2295	00	00	56

				2286	00	05	29
				2298	00	00	44
				2299	00	00	20
				2302	00	00	72
				2303	00	00	38
				2304	00	00	86
				2305	00	01	64
				2306	00	02	66
				2307	00	00	25
				2308	00	00	22
				2324	00	05	75
				2318	00	03	96
				2317	00	05	20
				2316	00	01	42
				2401	00	02	83
				2402	00	01	36
2	हरोली	ललड़ी	470	6440	00	01	59
				6439	00	01	35
				6445	00	00	20
				6441	00	04	39
				6442	00	04	33
				6444	00	00	20
				6443	00	03	82
				6459	00	09	19
				6458	00	01	13
				6460	00	00	92
				6457	00	17	17
3	उना	उदयपुर	224	1204	00	34	52
				1203	00	03	23
				1202	00	24	60
				1199	00	13	96
				1198	00	23	62
				1137	00	00	20

				1138	00	01	54
				1140	00	32	47
				1245/1155	00	00	55
				1244/1155	00	00	20
				1156	00	01	74
				1160	00	00	22
				1159	00	15	15
				1173	00	22	79
				953	00	09	68
				1175	00	00	96
4	उना	फतेहपुर	223	1881 रास्ता	00	00	64
				1880	00	07	55
				1879	00	11	05
				1902	00	00	20
				1903	00	04	94
				1904	00	02	49
				1905	00	02	86
				1908	00	00	20
				1907	00	00	20
				1910	00	02	55
				1909	00	01	25
				1919	00	04	86
				1918	00	01	47
				1915	00	05	49
				1926	00	00	61
				1914	00	00	30
				1927	00	00	30
				1929	00	00	20
				1925	00	01	52
				1928	00	01	60
				1923	00	00	20
				1949	00	07	08
				1952	00	01	09

				1950	00	00	69
				1951	00	00	29
				1967	00	08	24
				1972	00	01	58
				1966	00	01	31
				1965	00	01	09
				1985	00	00	22
				1973	00	00	20
				1984	00	00	49
				1986	00	00	39
				1988	00	11	79
				1638	00	07	01
				1631	00	00	20
				1630 रास्ता	00	00	23
				1632	00	00	48
				1633	00	00	20
				1629	00	02	01
				1634 रास्ता	00	00	20
				1635	00	00	20
				1626 रास्ता	00	00	50
				1627	00	02	33
				1603	00	01	95
				1605	00	00	37
				1608	00	02	88
				1609	00	02	38
				1607	00	00	20
				1610	00	02	57
				1611	00	02	75
				1612	00	01	53
				1493	00	02	39
				1492	00	00	90
5	उना	नंगड़ा उपरला	222	2463	00	00	21
				2464	00	14	20

				2466 रास्ता	00	02	50
6	उना	नंगड़ा झिकला	222	2169	00	00	25
				2159	00	03	95
				2156	00	02	23
				2155	00	02	64
				2154	00	01	42
				2153	00	01	42
				2112	00	00	58
				1889	00	01	83
				1888	00	00	33
				1887	00	02	68
				1877	00	02	77
				1878	00	00	15
				1879	00	00	20
				1874	00	02	01
				1873	00	01	96
				1872	00	00	46
				1869	00	01	47
				1868	00	00	20
				1867	00	01	86
				1866	00	00	20
				1862	00	01	89
				1863	00	00	36
				1864	00	00	20
				1858	00	00	20
				1857	00	01	96
				1856	00	01	66
				1850	00	03	87
				1851	00	00	20
				1846 रास्ता	00	00	64
				1828	00	02	00
				1829	00	18	29
				1830	00	04	33

		1832	00	00	20
		1831	00	00	79
		1821	00	02	44
		1820	00	02	37
		1813	00	00	70
		1812	00	01	44
		1811	00	02	25
		1656	00	00	20
		1655	00	01	16
		1657	00	03	29
		1658	00	03	21
		1659	00	02	78
		1660	00	01	86
		1384	00	01	38
		1383	00	00	60
		1662	00	01	11
		1382	00	01	54
		1377 रास्ता	00	00	63
		1358	00	01	20
		1338	00	01	51
		1336	00	02	50
		1337	00	00	20
		1335	00	00	62
		1330	00	00	20
		1667	00	00	69
		1329	00	00	66
		1323	00	01	16
		1324	00	01	00
		1303	00	03	64
		1302	00	03	44
		1672	00	00	20
		1673	00	00	86
		1674	00	00	20

1675	00	03	64
1295	00	01	89
1296	00	00	92
1294	00	05	33
1293	00	00	59
1286	00	05	85
1285	00	04	50
1289	00	00	20
1284	00	01	37
1287	00	00	37
1288	00	00	63
1281	00	15	09
1182	00	04	51
1135	00	05	37
994	00	03	43
993	00	03	75
992	00	03	80
996	00	02	79
995	00	00	49
997	00	02	90
1008	00	00	42
1007	00	00	20
999	00	02	59
1006	00	04	87
1005	00	05	65
1003	00	01	41
1004	00	07	05
1013	00	01	05
2186/818 रास्ता	00	00	97
437	00	01	81
436	00	01	73
435	00	02	53
434	00	02	30

	433	00	01	61
	452	00	03	15
	463	00	03	13
	465	00	03	03
	466	00	02	32
	467	00	02	00
	470	00	02	30
	396	00	00	20
	395	00	00	66
	394	00	00	47
	391	00	00	20
	392	00	00	92
	393	00	01	13
	477	00	00	20
	379	00	00	20
	378	00	01	15
	478	00	01	12
	377	00	01	66
	372	00	00	43
	495	00	00	20
	370	00	03	19
	371	00	01	33
	369	00	01	79
	356	00	00	20
	367	00	01	16
	368	00	00	20
	366	00	00	20
	360	00	00	20
	365	00	02	67
	364	00	00	90
	273	00	02	74
	272	00	04	34
	271	00	02	93

269	00	01	67
270	00	01	24
258	00	02	71
256	00	05	16
257	00	01	43
509	00	01	06
510	00	00	54
240	00	00	29
239	00	01	38
238	00	00	20
516	00	05	98
519	00	00	29
518	00	02	24
532	00	06	17
123	00	06	21
122	00	04	89
533	00	01	23
535	00	01	04
534	00	14	26
537	00	03	40
570	00	02	25
569	00	02	55
568	00	05	12
567	00	03	74
538	00	00	45
566	00	00	33
565	00	00	79
549	00	00	95
564	00	00	86
555	00	12	06
556	00	02	18
557	00	05	78
558	00	00	73

			553	00	08	49
7	उना	पेखूबेला	1008	00	10	47
			1016	00	09	29
			1011	00	01	53
			1015	00	02	16
			1014	00	21	34
			1013	00	03	31

[फा. सं. आर-11025(11)/248/2017-ओआर-I/ई-18228]

पवन कुमार, अवर सचिव

New Delhi, the 24th November, 2017

S.O. 2687.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas, published in the Gazette No. 27 dated 08.07.2017, S.O. No. 1582 dated 22.06.2017 Part-II, section 3, sub-section (ii) issued under sub-section (1) of section 3 of the Petroleum and Minerals pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act) the Central Government declared its intention to acquire the right of user in the land situated in Tehsil Una and Haroli, District Una in Himachal Pradesh State, specified in the schedule appended to that notification for the purpose of laying pipeline for the transportation of petroleum product from village Jhungian in the State of Punjab, District Shahid Bhagat Singh Nagar to Pekhubela in the State of Himachal Pradesh, District Una by the Indian Oil Corporation Limited for implementing the "PAJPL Una Branch line project".

And whereas the copies of the said Gazette notification were made available to the public on 22.09.2017

And whereas the Competent Authority has under sub-section (1) of section 6 of the said Act, has submitted his report of Central Government.

And whereas, the Central Government after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire right of the user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user of the said land for laying the pipeline shall, instead of vesting in the Central Government, vests on the date of publication of the declaration, in India Oil Corporation Limited, free from all encumbrances.

India Oil Corporation Limited shall be exclusively liable for any compensation in terms of section 10 of the P & MP Act, 1962 and no suit, claim or legal proceeding would lie against the Central Government on any matter relating to pipeline.

SCHEDULE

District: Una State : Himachal Pradesh

Sr. No.	Name of Tehsil	Name of Village	Hadbast No.	Khasara No.	Area		
					Hectare	Are	Sq. mtr.
1	2	3	4	5	6	7	8
1	Haroli	Theh	471	2481 Rasta	00	00	71
				2126	00	01	18
				2127	00	00	21
				2128	00	01	57

2129	00	01	25
2136	00	08	22
2135	00	02	01
2138	00	00	34
2150	00	00	20
2139	00	00	24
2140	00	03	45
2149	00	00	20
2141	00	00	68
2142	00	06	23
2143	00	00	71
2144	00	00	37
2145	00	01	52
2445	00	09	30
2442	00	00	23
2443	00	00	29
2444	00	00	67
2440 Rasta	00	00	66
2260	00	01	09
2358	00	03	12
2262	00	01	33
2357	00	00	91
2356	00	06	89
2355	00	00	88
2354	00	02	47
2292	00	00	75
2291	00	00	20
2290	00	00	20
2293	00	02	82
2294	00	00	20
2296	00	00	20
2295	00	00	56
2286	00	05	29
2298	00	00	44
2299	00	00	20
2302	00	00	72
2303	00	00	38
2304	00	00	86
2305	00	01	64
2306	00	02	66
2307	00	00	25

				2308	00	00	22
				2324	00	05	75
				2318	00	03	96
				2317	00	05	20
				2316	00	01	42
				2401	00	02	83
				2402	00	01	36
2	Haroli	Laladi	470	6440	00	01	59
				6439	00	01	35
				6445	00	00	20
				6441	00	04	39
				6442	00	04	33
				6444	00	00	20
				6443	00	03	82
				6459	00	09	19
				6458	00	01	13
				6460	00	00	92
				6457	00	17	17
3	Una	Udaypur	224	1204	00	34	52
				1203	00	03	23
				1202	00	24	60
				1199	00	13	96
				1198	00	23	62
				1137	00	00	20
				1138	00	01	54
				1140	00	32	47
				1245/1155	00	00	55
				1244/1155	00	00	20
				1156	00	01	74
				1160	00	00	22
				1159	00	15	15
				1173	00	22	79
				953	00	09	68
				1175	00	00	96
4	Una	Fatehpur	223	1881 Rasta	00	00	64
				1880	00	07	55
				1879	00	11	05
				1902	00	00	20
				1903	00	04	94
				1904	00	02	49
				1905	00	02	86

1908	00	00	20
1907	00	00	20
1910	00	02	55
1909	00	01	25
1919	00	04	86
1918	00	01	47
1915	00	05	49
1926	00	00	61
1914	00	00	30
1927	00	00	30
1929	00	00	20
1925	00	01	52
1928	00	01	60
1923	00	00	20
1949	00	07	08
1952	00	01	09
1950	00	00	69
1951	00	00	29
1967	00	08	24
1972	00	01	58
1966	00	01	31
1965	00	01	09
1985	00	00	22
1973	00	00	20
1984	00	00	49
1986	00	00	39
1988	00	11	79
1638	00	07	01
1631	00	00	20
1630 Rasta	00	00	23
1632	00	00	48
1633	00	00	20
1629	00	02	01
1634 Rasta	00	00	20
1635	00	00	20
1626 Rasta	00	00	50
1627	00	02	33
1603	00	01	95
1605	00	00	37
1608	00	02	88
1609	00	02	38

				1607	00	00	20
				1610	00	02	57
				1611	00	02	75
				1612	00	01	53
				1493	00	02	39
				1492	00	00	90
5	Una	Nangran Upparla	222	2463	00	00	21
				2464	00	14	20
				2466 Rasta	00	02	50
6	Una	Nangran Jhikla	222	2169	00	00	25
				2159	00	03	95
				2156	00	02	23
				2155	00	02	64
				2154	00	01	42
				2153	00	01	42
				2112	00	00	58
				1889	00	01	83
				1888	00	00	33
				1887	00	02	68
				1877	00	02	77
				1878	00	00	15
				1879	00	00	20
				1874	00	02	01
				1873	00	01	96
				1872	00	00	46
				1869	00	01	47
				1868	00	00	20
				1867	00	01	86
				1866	00	00	20
				1862	00	01	89
				1863	00	00	36
				1864	00	00	20
				1858	00	00	20
				1857	00	01	96
				1856	00	01	66
				1850	00	03	87
				1851	00	00	20
				1846 Rasta	00	00	64
				1828	00	02	00
				1829	00	18	29
				1830	00	04	33

1832	00	00	20
1831	00	00	79
1821	00	02	44
1820	00	02	37
1813	00	00	70
1812	00	01	44
1811	00	02	25
1656	00	00	20
1655	00	01	16
1657	00	03	29
1658	00	03	21
1659	00	02	78
1660	00	01	86
1384	00	01	38
1383	00	00	60
1662	00	01	11
1382	00	01	54
1377 Rasta	00	00	63
1358	00	01	20
1338	00	01	51
1336	00	02	50
1337	00	00	20
1335	00	00	62
1330	00	00	20
1667	00	00	69
1329	00	00	66
1323	00	01	16
1324	00	01	00
1303	00	03	64
1302	00	03	44
1672	00	00	20
1673	00	00	86
1674	00	00	20
1675	00	03	64
1295	00	01	89
1296	00	00	92
1294	00	05	33
1293	00	00	59
1286	00	05	85
1285	00	04	50
1289	00	00	20

	1284	00	01	37
	1287	00	00	37
	1288	00	00	63
	1281	00	15	09
	1182	00	04	51
	1135	00	05	37
	994	00	03	43
	993	00	03	75
	992	00	03	80
	996	00	02	79
	995	00	00	49
	997	00	02	90
	1008	00	00	42
	1007	00	00	20
	999	00	02	59
	1006	00	04	87
	1005	00	05	65
	1003	00	01	41
	1004	00	07	05
	1013	00	01	05
	2186/818 Rasta	00	00	97
	437	00	01	81
	436	00	01	73
	435	00	02	53
	434	00	02	30
	433	00	01	61
	452	00	03	15
	463	00	03	13
	465	00	03	03
	466	00	02	32
	467	00	02	00
	470	00	02	30
	396	00	00	20
	395	00	00	66
	394	00	00	47
	391	00	00	20
	392	00	00	92
	393	00	01	13
	477	00	00	20
	379	00	00	20
	378	00	01	15

478	00	01	12
377	00	01	66
372	00	00	43
495	00	00	20
370	00	03	19
371	00	01	33
369	00	01	79
356	00	00	20
367	00	01	16
368	00	00	20
366	00	00	20
360	00	00	20
365	00	02	67
364	00	00	90
273	00	02	74
272	00	04	34
271	00	02	93
269	00	01	67
270	00	01	24
258	00	02	71
256	00	05	16
257	00	01	43
509	00	01	06
510	00	00	54
240	00	00	29
239	00	01	38
238	00	00	20
516	00	05	98
519	00	00	29
518	00	02	24
532	00	06	17
123	00	06	21
122	00	04	89
533	00	01	23
535	00	01	04
534	00	14	26
537	00	03	40
570	00	02	25
569	00	02	55
568	00	05	12
567	00	03	74

			538	00	00	45
			566	00	00	33
			565	00	00	79
			549	00	00	95
			564	00	00	86
			555	00	12	06
			556	00	02	18
			557	00	05	78
			558	00	00	73
			553	00	08	49
7	Una	Pekhubela	1008	00	10	47
			1016	00	09	29
			1011	00	01	53
			1015	00	02	16
			1014	00	21	34
			1013	00	03	31

[F. No. R-11025(11)/248/2017-OR-I/E-18228]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 24 नवम्बर, 2017

का.आ. 2688.—केन्द्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आव यक है कि ''पटना – मोतिहारी – बैतालपुर शाखा पाइपलाइन'' के अंतर्गत पेट्रोलियम पदार्थो के परिवहन हेतु जिला पटना, राज्य बिहार में इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए ।

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए आवश्यक प्रतीत होता है कि उस भूमि में जिसके भीतर उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है।

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको, भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के अन्दर, भूमि के भीतर पाइपलाइन बिछाए जाने हेतु उपयोग के अधिकार के अर्जन के लिए, श्री ललन प्रसाद सिंह, बि.प्र.से. व सक्षम प्राधिकारी इंडियन ऑयल कॉर्पोरेशन लिमिटेड, (पाइपलाइन्स डिवीजन) पटना, पी॰एम॰बी॰पी॰एल॰ नीशी कुंज, बसंत विहार कॉलोनी, बोरिंग रोड, जिला पटना, पिनः 800001, बिहार को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

जिला : पटना				राज्य : बिहार	
मौजा /ग्राम	सर्वे / ब्लाक / सं. (प्लोट सं.)	सब–डीव–सं.	क्षेत्रफल		
			हेक्टेयर	आरे	वर्ग मीटर
1	2	3	4	5	6
अल्हानपुरा थाना नंबर–60	2204		00	10	80
बीसुनपुरा थाना नंबर–66	680 682		00 00	15 04	79 62

	522(रास्ता)		00	05	00
	404		00	07	05
	403		00	03	38
	402		00	00	26
	377		00	01	10
	379		00	02	73
परखोतीमपुर पैनाठी	950		00	04	16
थाना नंबर—68	927		00	03	64
	929		00	01	16
	928		00	06	78
	930		00	00	32
	923		00	00	63
	922		00	05	32
	921		00	00	89
	907(नाला)		00	03	68
	616		00	05	31
	617		00	07	59
	618		00	01	08
	622		00	04	26
कुतलुपुर	1225		00	01	33
थाना नंबर—56	511/2716		00	07	65
मुन्सेपुर	521		00	03	18
थाना नंबर—19					
माधोपुर	875		00	00	24
थाना नंबर—21	876		00	02	23
	877		00	01	18
	878		00	06	13
	884		00	03	38
	881		00	07	73
	882		00	09	42
	880		00	01	47
	636		00	02	02
	637		00	02	45
	638		00	02	78
	639		00	00	20
	640		00	09	73
रामबाद	1422		00	02	12
थाना नं०—7/110					

[फा. सं. आर-11025(11)/196/2017-ओआर-I/ई-9925]

पवन कुमार, अवर सचिव

New Delhi, the 24th November, 2017

S.O. 2688.—Whereas it appears to the Central Government that it is necessary in the public interest that a pipeline should be laid by the Indian Oil Corporation Limited in Dist. Patna in the State of Bihar for "Patna - Motihari - Baitalpur Branch Pipeline'' for the transportation of Petroleum Product;

And, whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty one days from the date on which the copies of the notification issued under sub-section (1) of Section 3 of the said Act, as published in the Gazette of India are made available to the general public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land, to Shri Lalan Prasad Singh, B.A.S. & Competent Authority, Indian Oil Corporation Limited. (Pipelines Division) PMBPL Nishi Kunj, Basant Bihar Colony, Boring Road Dist. Patna (Bihar.) Pin – 800001.

SCHEDULE

District : Patna				State : Bihar	
Mouja / Village	Survey/Block No.	Sub-Div-No.	Area		
			Hectare	Are	Sq.mtr.
1	2	3	4	5	6
Alhanpur	2204		00	10	80
Thana no.60					
Bisunpura	680		00	15	79
Thana no.-66	682		00	04	62
	522-Road		00	05	00
	404		00	07	05
	403		00	03	38
	402		00	00	26
	377		00	01	10
	379		00	02	73
Parkhotimpur	950		00	04	16
Painathi	927		00	03	64
Thana no.-68	929		00	01	16
	928		00	06	78
	930		00	00	32
	923		00	00	63
	922		00	05	32
	921		00	00	89
	907-Nala		00	03	68
	616		00	05	31
	617		00	07	59
	618		00	01	08

	622		00	04	26
Kutlupur	1225		00	01	33
Thana no.-56	511/2716		00	07	65
Munsepur	521		00	03	18
Thana no.-19					
Madhopur	875		00	00	24
Thana no.-21	876		00	02	23
	877		00	01	18
	878		00	06	13
	884		00	03	38
	881		00	07	73
	882		00	09	42
	880		00	01	47
	636		00	02	02
	637		00	02	45
	638		00	02	78
	639		00	00	20
	640		00	09	73
Rambad	1422		00	02	12
Thana no.-7/110					

[F. No. R-11025(11)/196/2017-OR-I/E-9925]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 24 नवम्बर, 2017

का.आ. 2689.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उप-धारा (1) भारत के राजपत्र, (असाधारण) के अधीन जारी की गयी भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का.आ. 2491(अ), तारीख 20 जुलाई, 2016, द्वारा तमिलनाडु राज्य में एन्नूर से मदुरै तक वाया चेंगलपट्टुत्रिची एलपीजी परिवहन के लिए इंडियन-पांडिचेरी ऑयल कॉर्पोरेशन लिमिटेड के द्वारा एक पाइपलाइन बिछाने के प्रयोजन के लिए उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी।

और उक्त अधिसूचना की प्रतियाँ जनता को तारीख 22.07.2016 को उपलब्ध करा दी गई थी।

और उक्त अधिनियम की धारा 6 की उप - धारा (1) के अनुसरण में सक्षम प्राधिकारी ने केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है।

और केन्द्रीय सरकार का उक्त रिपोर्ट पर विचार करने के पश्चात यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाना चाहिए।

अत: अब, केन्द्रीय सरकार,उक्त अधिनियम की धारा 6 की उप-धारा(1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना के संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमि में पाइपलाइन बिछाने के लिए उपयोग का अधिकार अर्जित किया जाता है।

यह और कि केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा(4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निर्देश देती है कि उक्त भूमि के उपयोग का अधिकार इस अधिसूचना के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने की बजाए, सभी विल्लंगमों से मुक्त हो कर इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

पैट्रोलियम और खनिज पाइपलाइन अधिनियम, 1962 की धारा 10 के अधीन किसी भी क्षतिपूर्ति के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड पूर्णतया उत्तरदायी होगी और पाइपलाइन से सम्बन्धित किसी भी मामले पर केन्द्रीय सरकार के विरुद्ध कोई वाद दावा या कानूनी कार्यवाही नहीं हो सकेगी।

अनुसूची

तालुका : टिंडीवनम	जिला : विल्लुपुरम		राज्य : तमिलनाडु		
गाँव का नाम	सर्वेक्षण सं.- खण्ड सं.	उप खण्ड सं.	क्षेत्रफल		
			हेक्टेर	एयर	वर्ग मीटर
1	2	3	4	5	6
282. चित्तनि	50	2	0	08	20

तालुक: विक्रवांडी	जिला : विल्लुपुरम		राज्य : तमिलनाडु		
गाँव का नाम	सर्वेक्षण सं.- खण्ड सं.	उप खण्ड सं.	क्षेत्रफल		
			हेक्टेर	एयर	वर्ग मीटर
1	2	3	4	5	6
132. रेड्डिकुप्पम	35	9बी	0	05	25

[फा. सं. आर-11025(11)/96/2017-ओआर-I/ई-7820]

पवन कुमार, अवर सचिव

New Delhi, the 24th November, 2017

S.O. 2689.—Whereas, by the notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. No. 2491(E), dated: 20.07.2016 issued under sub section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (herein after referred to as the said Act) the Central Government declared its intention to acquire the Right of User in the Lands specified in the Schedule appended to that notification for the purpose of laying pipeline for the transportation of Liquefied Petroleum Gas from Ennore to Madurai (Via) Chengalpattu, Pondicherry (UT) Trichy in the State of Tamil Nadu, a pipeline should be laid by the Indian Oil Corporation Limited, for implementing the Ennore – Trichy – Madurai Pipeline Project.

And whereas, copies of the said notifications were made available to the public from 22.07.2016.

And whereas, the Competent Authority in pursuance of sub-section (1) of section 6 of the said Act has submitted his report to the Central Government;

And whereas, the Central Government, after considering the said report is satisfied that the Right of User in the Land specified in the Schedule appended to this notification should be acquired;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the Right of User in the said Land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the Right of User in the said Land shall instead of vesting in the Central Government, vest from the date of publication of this declaration, in the Indian Oil Corporation Limited free from all encumbrances.

Indian Oil Corporation Limited shall be exclusively liable for any compensation in terms of section 10 of the P & M P Act, 1962 and no suit, claim or legal proceeding would lie against the Central Government on any matter relating to pipeline.

SCHEDULE

Taluk : Tindivanam	District : Villupuram		State : Tamil Nadu		
Name of the Village	Survey No.	Sub Division No.	Area		
			Hectare	Are	Square Meter
1	2	3	4	5	6
282. Chittani	50	2	0	08	20

Taluk : Vikravandi	District : Villupuram		State : Tamil Nadu		
Name of the Village	Survey No.	Sub Division No.	Area		
			Hectare	Are	Square Meter
1	2	3	4	5	6
132. Reddikkupam	35	9B	0	05	25

[F. No. R-11025(11)/96/2017-OR-I/E-7820]

PAWAN KUMAR, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 13 नवम्बर, 2017

का.आ. 2690.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, चंडीगढ़ के पंचाट (संदर्भ सं. 33/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.11.2017 को प्राप्त हुआ था।

[सं. एल-12012/66/2016-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 13th November, 2017

S.O. 2690.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 33/2016) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of Punjab National Bank and their workmen, received by the Central Government on 13.11.2017.

[No. L-12012/66/2016-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present : Sri Kewal Krishan, Presiding Officer

Case No. I.D. No. 33/2016

Registered on 04.01.2017

Sh. Arunanshu Bhardwaj, R/o H.No.2204,
Housing Board Colony, Sector-4, Rewari (Haryana) …Petitioner

Versus

1. Deputy General Manager, Punjab National Bank,
   Circle Office Sonepat Road, Rohtak, Haryana.
2. Field General Manager, Punjab National Bank,
   Sector-17-B, Chandigarh.
3. Chairman cum Managing Director,
   Punjab National Bank, Bhikaji Cama Palace,
   New Delhi …Respondent

APPEARANCES :

For the workman : Sh. S.C. Gupta, Adv.

For the Management : Management ex parte

AWARD

Passed on : 09.10.2017

Vide Order No.L-12012/66/2016-IR(B-II), dated 20.12.2016 the Central Government in exercise of the powers conferred by Clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (in short Act) has referred the following industrial dispute for adjudication to this Tribunal.

> "Whether the action of the management of Punjab National Bank, Rohtak in terminating the service of the workman Sh. Arunanshu Bhardwaj, Clerk-Cum-Typist w.e.f. 27.03.2010 is fair, legal and justified? If not, what relief the workman is entitled to and from which date?"

The facts, in brief are, that the workman Sh. Arunanshu Bhardwaj was appointed as Clerk-cum-Typist with the management on 17.07.1986 and continued working at branch office Kund. He was placed under suspension on 16.01.2008 and the following charge-sheet was served on him :-

"Charge No. 1:- *That on 13.09.2007, you unauthorizedly debited the Saving Fund A/c No.9217 of Smt. Angoori Devi with a sum of Rs.50,000/- and credited the same in Savings Fund A/c No.6188 of sh. Ved Parkash. This amount of Rs.50,000/- was withdrawn on 15.09.2007 to clear a cheque already received by the Branch Office signed by Sh. Ved Parkash. You unauthorizedly used the Password of Sh. Bal Kishan, CTO-A and Sh. C.R. Batra, Manager respectively to create the transaction and authorize it.*

Charge No. 2:- *That on 12.10.2007 Smt. Sumitra Devi deposited a sum of Rs.23,000/- in cash for credit of her S.F. A/c 10944 which was intentionally and wrongly credited by you to S.F. A/c No.12375 of Sh. Deepak(out of which Rs.20,000/- were withdrawn on 15.10.2007 and Rs.3,000/- were withdrawn on 29.10.2007 through withdrawal slips under the signatures of Sh. Deepak by unauthorizedly using the password of Sh. C.R. Batra, Manager.*

Charge No. 3:- *That on 26.11.2007, you unauthorizedly debited C.A. A/c No.1(ODFD) to the tune of Rs.23,000/- and credited this amount to S.F. A/c No.10944 of Smt. Sumitra Devi. This entry was unauthorizedly created by you to compensate the S.F. A/c No.10944 of Smt. Sumitra Devi. You unauthorizedly used the Password of Sh. Ram Avtar Kalania, Deputy Manager and Sh. C.R. Batra, Manager respectively to create the transaction and authorize it.*

Charge No. 4:- *That on 06.12.2007, you unauthorizedly debited a sum of Rs.50,000/- to S.F. A/c No.6138 of Sh. Raj Kumar and credited the same to S.F. A.No.13704 of Dr. Sanjay. You unauthorizedly used the Password of SU to authorize this transaction. It is also alleged that you had already received Cash from Dr. Sanjay for deposit in his a/c which you did not deposit and misappropriated the amount for your personal pecuniary gain. This entry was created to afford credit in the account of Dr. Sanjay, which should have been credited earlier.*

Charge No. 5:- *That on 15.12.2007, you unauthorizedly debited C.A. A/c No.1(CDFD) by Rs.50,000/- and credited the same to S.F. A/c No.6138. Sh. Raj Kumar. You unauthorizedly used the password of SU to authorize this transaction. This entry was unauthorizedly created by you to compensate the amount withdrawn from S.F. A/c No.6138 of Sh. Raj Kumar on 06.12.2007.*

Charge No. 6:- *That on 29.12.2007 you unauthorizedly transferred a sum of Rs.15,000/- from current account No.1024 JSR Slate India and credited the amount to S.C. A/c 7708 of Sh. Birender. You unauthorizedly used the password of SU to authorize this transaction. This entry was made by you to compensate the account."*

The management appointed an enquiry officer before whom evidence was led and after concluding the enquiry, he submitted his report dated 21.11.2009, holding that charges against the workman are proved. The copy of the report was forwarded to the workman vide letter dated 26.11.2009 and he filed its reply.

The disciplinary authority agreed with the enquiry report and passed the impugned order dated 27.03.2010, terminating the services of the workman.

The workman challenged the order of dismissal dated 27.03.2010 on the ground that the enquiry conducted in this case is illegal as he was not supplied the copies of documents, list of witnesses before start of enquiry. The enquiry officer was biased who acted under the instructions from the superiors. There was no material evidence to indict the workman and the witnesses examined by the management are all interested witnesses. That there was no evidence to prove the charges against him.

In the circumstances, it is pleaded that the enquiry report is illegal and invalid and consequently the order of dismissal from service dated 27.03.2010 passed on this, is also illegal and the same be set aside, and he be reinstated in service.

Notice was given to the management through registered cover but none appeared on its behalf and it was proceeded against ex parte vide order dated 24.08.2017.

I have heard Sh. S.C. Gupta, learned counsel for the workman and perused the enquiry proceedings submitted by him.

The contentions made by the learned counsel for the workman is that the enquiry officer did not supply the copies of the documents and list of witnesses prior to the start of the enquiry and he was very much biased and concluded the enquiry on the instructions of his senior officers. It was further submitted that no evidence was led during the enquiry to hold him guilty of the charges leveled against him, as such, the enquiry report is baseless.

It was further argued that bank did not suffer any loss nor any customer made any complaint against the workman and the enquiry report is not sustainable in the eye of law.

It was further submitted that the punishment awarded vide order dated 27.03.2010 is liable to be set aside as it is based on a wrong enquiry report and the workman be reinstated in service.

I have considered the contentions of the learned counsel.

A perusal of the charge-sheet show that the workman was charged for making wrong entries on 13.9.2007, 12.10.2007, 26.11.2007, 6.12.2007, 15.12.2007 and 29.12.2007 and it is alleged that he used the password of Sh. Bal Kishan CTO-A, C.R. Batra and Ram Avtar, as find mentioned in the charge-sheet and reproduced above. The said three persons namely Sh. C.R. Batra, R.A. Kalania and Sh. Bal Kishan has been examined as MW1, MW2 and MW3 respectively.

I have carefully perused their statement and they have nowhere stated that their passwords were used by anyone to make the wrong entries.

Sh. R.A. Kalania MW2 has deposed that every bank employee is to keep his password secret and get it changed from time to time. To that effect, statement has also been made by Sh. Bal Kishan MW3. None of the above said witnesses have stated a single line that their password was ever used by someone else much less the workman, who is alleged to have made the false entries. Thus, their statements do not prove in any way that their passwords or super-user password was used by the workman.

The enquiry officer has relied on the statements of the said witnesses and further on the alleged confessional letter ME-2 and observed in the enquiry report as follow:-

"On examination of Enquiry Proceeding EO is of view that ME-2 is a letter written and signed by SCE and same has deposed by MW-1 during his deposition.

On meticulous study of Enquiry Proceedings EO upholds that ME-2 is signed and delivered by CSE to Shri C.R. Batra then Branch Manager BO Kund MW-1 deposed the same during Enquiry Proceedings.

Further MW-1, MW-2 & MW-3 deposed that CSE created wrong entries on various dates for Rs.138000/- and deposited the amount as per ME-3(Rs.100000/-) and ME-4 (Rs.38000)in Sundry accounts."

The enquiry officer concluded that charges against the workman are proved which is a major misconduct. Since the statement of MW1, MW2 and MW3 do not prove that their passwords were ever used by anyone much less by the workman therefore, it cannot be said that it was the workman who made the wrong entries in the record as alleged in the charge-sheet.

Now coming to the alleged confessional letter ME-2, it is not proved by the witnesses that the workman actually made false entries in the record. The letter ME-2 is dated 15.01.2008 and its Photostat copy was produced before the enquiry officer on 24.2.2009 and no effort was made by the bank to bring the original document as much as the workman has denied the said letter. Every document is to be proved by producing the same and not photocopy thereof and since the original letter dated 15.1.2008 allegedly given by the workman has not put forward, it cannot be said that said letter is proved on the file.

It may also be mentioned here that MW1(photocopy of letter dated 15.01.2008) do not show that the entries were actually made by the workman. It only contains different amounts and no reference has been made to the account members as find mentioned in the charge-sheet. Therefore, the confessional letter allegedly written by the workman on 15.1.2008 is not proved and do not advance the case of management. If the workman has deposited the amount in sundry account as is the admitted case and deposed by the witnesses also, the same do not conclusively prove that he actually made the wrong entries. Sh. C.R. Batra stated that they requested the workman to deposit the amount and accordingly he deposited the amount. If the workman has deposited the amount under some pressure from the colleagues, the same do not prove that actually he was guilty of making wrong entries in the record.

Sh. C.R. Batra has stated that no complaint was received from any customer regarding the alleged wrong entries meaning thereby it is doubtful that some wrong entries were actually made in the record and by simply saying that wrong entries have been made by the workman, he cannot be fastened with any liability.

Again there is nothing on the file to suggest that the bank or any of its customers suffered any loss due to the alleged wrong entries as mentioned in the charge-sheet and when it is so, it cannot be said that the charges against the workman are proved on the file.

None of the account holders were examined at any stage of the enquiry to establish the charges.

The enquiry officer was not right in relying on the statements of the witnesses examined before him and on the confessional letter Ex.ME-2 to hold that the workman made the wrong entries.

Since no evidence at all came before the enquiry officer to hold that the workman was guilty for making wrong entries in the record by using the password of the witnesses examined during the course of the enquiry, the enquiry report is not sustainable in law.

It is alleged under Charge No.4 that workman received cash of Rs.50,000/- from Dr. Sanjay and he misappropriated the amount for his personal pecuniary gain and debited the amount of Rs.50,000/- in the account of Sh. Raj Kumar to show credit in the account of Sh. Sanjay. But neither Dr. Sanjay nor Raj Kumar were examined before the enquiry officer to establish that any amount was misappropriated by the workman.

It may also be mentioned as is clear from the statement of MW-1 that the police did not register any case on the basis of the said alleged wrong entries.

In result, the enquiry report dated 21.11.2009 being not based on any evidence is set aside.

Since the enquiry report has been set aside, as discussed above; and the management has not contested the present reference, and therefore, the order dated 27.03.2010 passed by the management for terminating the services of the workman is not sustainable and the same is also set aside.

It is ordered that workman be reinstated in service with continuity and full back wages. The workman deposited Rs.1,38,000/- on 14.01.2008 in sundry account as deposed by Sh. C.R. Batra(MW-1) examined before the enquiry officer, and since the workman was not liable to deposit the said amount; it is ordered that the amount so deposited be refunded to him.

The workman be reinstated within one month from the publication of the award and the arrears of pay etc. be calculated and paid to him within four months thereof. The amount deposited by him, as stated above be also paid to him within one month of the publication of the award.

In case, the management fails to calculate and pay the arrears within four months from the publication of the award, the workman shall be entitled to interest @ 6 % per annum from the date of the award till realization. The reference is answered on the above said terms.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2017

का.आ. 2691.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब एंड सिंध बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, चंडीगढ़ के पंचाट (संदर्भ सं. 149/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.11.2017 को प्राप्त हुआ था।

[सं. एल-12012/70/2010-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 13th November, 2017

S.O. 2691.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 149/2011) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of Punjab & Sind Bank and their workmen, received by the Central Government on 13.11.2017.

[No. L-12012/70/2010-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present : Sri Kewal Krishan, Presiding Officer

Case No. I.D. No. 149/2011

Registered on 24.05.2011

Sh. Tarlochan Singh Bhogal, Ex-CTO,
Punjab & Sind Bank, House No.70/3,
Mohalla Bari Sarkar, Anandpur Sahib,
Distt. Ropar, Punjab …Petitioner

Versus

1. The General Manager(Personnel),
   Punjab & Sind Bank 21, Rajinder Palace,
   New Delhi.

2. Zonal Manager II, Punjab & Sind Bank,
   Sector 17-B, Chandigarh …Respondents

APPEARANCES :

For the workman : Sh. Arun Batra, Adv.

For the Management : Management ex parte

AWARD

Passed on:- 26.10.2017

Vide Order No.L-12012/70/2010-IR(B-II), dated 18.04.2011 the Central Government in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Disputes Act, 1947 (in short Act) has referred the following industrial dispute for adjudication to this Tribunal.

> "Whether the action of the management of Punjab & Sind Bank in imposing the punishment of dismissal without notice from the bank services vide order dated 28.06.2008 upon Shri Tarlochan Singh Bhogal, Ex-CTO, is just and proper? What relief the concerned workman is entitled to?"

The workman appeared and submitted statement of claim, to which the management filed reply.

The facts, emerging are, that the workman was working as Clerk with the management and was awarded punishment on 06.05.2006. A second charge-sheet was served on 30.09.2004 and a third charge-sheet was served on 22.05.2006. In pursuance to the second charge-sheet, he was "compulsorily retired" from service on 30.07.2007. Now according to the workman, on the conclusion of the third enquiry, he was "dismissed without notice" vide letter dated 28.06.2008, which is illegal as there was no relationship of master and servant between the parties and the order of termination is illegal.

The management in its reply, pleaded that workman used objectionable language to one Mr. Nath Singh and after serving the charge-sheet, a due enquiry was conducted. Finding him guilty, he was dismissed from service as per rules and there is no illegality in the order.

The management was proceeded against ex part vide Order dated 27.09.2016.

The workman did not lead any evidence.

I have heard Sh. Arun Batra for the workman.

It is not disputed that the workman was compulsorily retired from service on 30.07.2007 in pursuance of the enquiry initiated on the basis of charge-sheet dated 30.09.2004. Another enquiry on the basis of the charge-sheet dated 22.05.2006 was pending and on its conclusion, he was "dismissed without notice" on 28.06.2008. There was no relationship of master and servant between the parties when the order of dismissal was passed as the same came to be an end on 30.07.2007 when the workman was compulsory retired from service. When the workman was not in service of the respondent-bank on 28.06.2008, the order of dismissal would not have been passed against him. In this respect, reliance may be placed on ***UCO Bank Vs. Rajinder Lal Capoor 2007 LawSuit(SC)711*** when it was observed in Para 23 of the Judgment as follow:-

> ***"An order of dismissal or removal from service can be passed only when an employee is in service. If a person is not in employment, the question of terminating his services ordinarily would not arise unless there exists a specific rule in that behalf."***

No rule has come on record to establish that the management was competent to take action after the termination of the services of the workman. Thus, the order dated 28.06.2008 cannot be termed as legal and valid.

In result, the reference, is answered, holding that the action of the management in imposing the punishment of "dismissal without notice" vide order dated 28.06.2008 upon the workman is not just and proper and the same is set aside.

The workman is entitled to all the benefits which are payable to him on the basis of the Order dated 30.07.2007 passed by the management and the same be calculated and paid to him within six months of the publication of the award failing which the workman shall be entitled to interest @ 6% per annum on the calculated amount from the date of award till realization.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2017

का.आ. 2692.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक न्यायाधिकरण सं. 3, पूणे (महाराष्ट्र) के पंचाट [विविध एपलिकेशन (आई.टी.) सं. 3/2017 ऑफ संदर्भ सं. 17/2008] को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.11.2017 को प्राप्त हुआ था।

[सं. एल-12012/118/2007-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 13th November, 2017

S.O. 2692.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award [Misc. App. (IT) No. 3/2017 of Reference (IT) No. 17/2008] of the Industrial Tribunal, Pune (Maharashtra) as shown in the Annexure in the Industrial Dispute between the management of Bank of Baroda and their workmen, received by the Central Government on 13.11.2017.

[No. L-12012/118/2017-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL, AT PUNE

Misc. Application (IT) No. 3 of 2017

Between :

1. Assistant General Manager
   Bank of Baroda
   Plaza Chember, 4th Floor
   Dr. Atmaram Borkar Road
   Panji, Gao-403 101

2. Bank of Baroda
   Shahupuri Branch, Kolhapur …First Party

And

Shri. Babasaheb Bapusa Erandole
Post : Sarnobatwadi, Tal. Karveer
Dist. Kolhapur …Second party

JUDGMENT

(Dated : 1.7.2017)

The Second Party has filed this application for correcting typographical mistake in his name in the cause title as well as para 1 of the Award dated 30.8.2014, passed in Reference (IT) No. 17/2008. As per the Second Party, said error is typographical error and due to this typographical error, the Second Party is facing problems in getting the order implemented.

2. Heard ld. Advocate Mr. Potnis for the Second Party. Perused Record and Proceedings. It appears that the original reference was made by the Central Government in respect of the demands raised by "Babasaheb Bapusa Erandole", by its order dated 20.2.2008. Bare perusal of the said order shows that said reference is in respect of "Babasaheb Bapusa Erandole". In the entire Record and Proceedings, as well as in the evidence filed by the Second Party, the name "Babasaheb" is there. Thus, it appears that the name "Balasaheb" typed in the title clause and in para 1 of the impugned Award is just a typographical error.

3. As per Rule 31 of the Industrial Disputes Maharashtra Rules, this Court has every authority to correct any clerical mistake or error arising from the accidental slip or ommission in any Award. Such an error can be corrected by this Court at any time sumoto or an application made by either of the party. In such circumstances, no notice is required to be issued. As it is a pure typographical error, the same is liable to be corrected. Hence, I proceed to pass following order :

ORDER

1. The present application is allowed.
2. Mistake in the name of Second Party in the impugned Award be corrected and the corrected Award be sent for appropriate action and publication.
3. No order as to costs.

Place : Pune
Date : 1.7.2017

Sd/-Illegible
Secretary
Industrial Tribunal, Pune.

S. V. SURYAWANSHI, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2017

का.आ. 2693.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सैन्ट्रल बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक न्यायाधिकरण, पूणे (महाराष्ट्र) के पंचाट (संदर्भ सं. 48/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.11.2017 को प्राप्त हुआ था।

[सं. एल-12011/77/2015-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 13th November, 2017

S.O. 2693.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 48/2015) of the Industrial Tribunal, Pune (Maharashtra) as shown in the Annexure in the Industrial Dispute between the management of Central Bank of India and their workmen, received by the Central Government on 13.11.2017.

[No. L-12011/77/2015-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL, AT PUNE

Reference (IT) No. 48 of 2015

Between :

1. The Field General Manager
   Central Bank of India, Zonal Office
   317, MG Road, Pune-411 001

2. Assistant General Manager
   Central Bank of India, R O 317
   MG Road, Pune-411 001

...First Parties

And

The General Secretary
Central Bank Employees Congress
Moti Manik Mansion, 1768 Laxmi Road
Pune-411 002 …Second Party

CORAM : Shri. S.V. Suryawanshi, Presiding Officer

AWARD

(Dated : 01.08.2017)

This is the reference made by the Government of India, Ministry of Labour & Employment. The dispute mentioned in the reference schedule is thus:-

> "*Whether the action of Regional Manager, Central Bank of India, Pune pertaining to the re-deployment of staff is legal and justified ? If not, to what relief the union is entitled to ?*"

2. The dispute is between the Field General Manager, Central Bank of India, Pune / Assistant General Manager Central Bank of India, Pune (First parties for short) and The General Secretary, Central Bank Employees Congress, Pune (Second Party for short).

3. Notice at Exh. O-2 is served upon the Second Party. Matter is pending since 16.1.2016 for filing of statement of claim by Second Party but no steps are being taken till date. Since no statement of claim has been filed since long, it seems that the Second party does not wish to proceed with the reference. Hence, I am inclined to answer the reference in the negative, and proceed to pass following Award :

AWARD

1. The Reference is answered in the negative for want of prosecution.

2. No order as to costs.

3. The copy of the Award be sent for its publication.

Place : Pune
Date : 1.8.2017

S. V. SURYAWANSHI, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2017

का.आ. 2694.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ महाराष्ट्र के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक न्यायाधिकरण, पुणे (महाराष्ट्र) के पंचाट (संदर्भ सं. 19/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.11.2017 को प्राप्त हुआ था।

[सं. एल-12011/15/2017-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 13th November, 2017

S.O. 2694.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 19/2017) of the Industrial Tribunal, Pune (Maharashtra) as shown in the Annexure in the Industrial Dispute between the management of Bank of Maharashtra and their workmen, received by the Central Government on 13.11.2017.

[No. L-12011/15/2017-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE SHRI. S.V. SURYAWANSHI, PRESIDING OFFICER
IN THE INDUSTRIAL TRIBUNAL, AT PUNE

Reference (IT) No. 19 of 2017

Between :

The General Secretary
All India Bank of Maharashtra
Employees Federation
C-3, N-1, Town Centre
CIDCO, Aurangabad 431 005 …First Party

And

The General Secretary
Bank of Maharashtra
Lokmangal, 1501, Shivajinagar
Pune 411 005 …Second party

AWARD

(Dated : 6.6.2017)

1. This is a reference sent by the Government of India/ Bharat Sarkar / Ministry of Labour / Shram Mantralaya, New Delhi by order dated 1.5.2017 in exercise of the powers conferred U/s 10 of sub-section (1) and sub-section (2A) of the Industrial Disputes Act, 1947, for adjudication of the dispute between the above-named parties.

2. Both the parties are present alongwith their ld. Advocates, and prayed to take the matter on today's board. Both the parties have further filed joint purshis at Exh. UC-1 and submitted that they have entered into an agreement dated 5.4.2017 and the dispute between the parties have been settled. They also expressed their willingness not to proceed with the matter as the dispute between the parties is already settled and prayed that the reference be disposed off. After due verification as per purshis and as per order below Exh. UC-1, present reference stands disposed off as settled. Hence, I proceed to pass following Award :

AWARD

1. The Reference stands disposed off as settled.
2. No order as to costs.
3. The copy of the Award be sent for its publication.

Place : Pune

Date : 06.06.2017

S. V. SURYAWANSHI, Presiding Officer

नई दिल्ली, 17 नवम्बर, 2017

का.आ. 2695.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स इम्प्रेशन सर्विसेज प्राइवेट लिमिटेड एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, नई दिल्ली के पंचाट (संदर्भ संख्या 162/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31.10.2017 को प्राप्त हुआ था।

[सं. एल-11011/7/2017-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th November, 2017

S.O. 2695.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 162/2017) of the Central Government Industrial Tribunal/Labour Court-1, New Delhi now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Impression Services Pvt. Ltd. and other and their workman, which was received by the Central Government on 31.10.2017.

[No. L-11011/7/2017-IR (M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 162/2017

Smt. Madhuri W/o Shri Ganesh Tati,
R/o House No.433, Arjun Camp, Mahipalpur,
New Delhi

Hindustan Engineering and General Mazdoor Union,
(Regd No.4479), Head Office – D-2/24,
Sultanpuri, New Delhi – 110041

…Workman

Versus

1. The Managing Director,
   M/s Impression Services Pvt. Ltd.,
   32-22, Vakil Market, Vijaya Complex, Chakkarpur,
   DLC Phase – IV, Gurgaon
   Haryana – 122 002
2. The CEO,
   Delhi International Airport (P) Ltd.,
   Opposite Terminal – 3, IGI International Airport,
   New Delhi – 110 037
3. The CMD,
   Airport Authority of India
   Rajiv Gandhi Bhawan,
   New Delhi

….Managements

AWARD

Central Government, vide letter No.L-11011/7/2017-IR(M) dated 25.05.2017, referred an industrial dispute to this Tribunal for adjudication, terms of which are as under:

> "Whether the services of Smt. Madhuri W/o Shri Ganesh Tati have been terminated by the managements of M/s Impression Service Pvt. Ltd./DIAL illegally and unjusfiably, if yes, whether she is entitled for reinstatement/re-employment in the establishment of DIAL with effect from 27.07.2015 with all consequential benefits for her past service and if so, what directions are necessary in this respect?"

2. In the reference order, the appropriate Government commanded the parties to the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, the claimant union opted not to file their claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the claimant, the claimant union as well as the management. Neither the postal article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant as well as the claimant union. Despite service of the notice, the claimant/claimant union opted to abstain away from the proceedings. No claim statement was filed on their behalf. Thus, it is clear that the claimant/claimant union is not interested in adjudication of the reference on merits.

4. Since the claimant/claimant union neither put in their appearance nor have they lead any evidence so as to prove their cause against the management, as such, this Tribunal is left with no other alternative but to pass a 'No dispute/claim' award. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : October 9, 2017

A. C. DOGRA, Presiding Officer

नई दिल्ली, 17 नवम्बर, 2017

का.आ. 2696.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स ओ. एन.जी.सी. लिमिटेड एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 1379/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31.10.2017 को प्राप्त हुआ था।

[सं. एल-30011/1/2002-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th November, 2017

S.O. 2696.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1379/2004) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. O.N.G.C. Ltd. and other and their workman, which was received by the Central Government on 31.10.2017.

[No. L-30011/1/2002-IR (M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 04th October, 2017

Reference : (CGITA) No. 1379/2004

1. M/s Envirocare Associate,
406, B-Centre Point,
Near Kadiwala High School, Ring Road, Surat (Gujarat)

2. M/s S. S. Constructon,
12/14, Nishant Shopping Centre,
7, Bungalows, Andheri (W), Mumbai – 400055

3. The Group General Manager (P),
ONGC Ltd., Hazira Project,
PO – Bhatpore, Surat (Gujarat) …First Party

V/s

The General Secretary,
Gujarat Working Class Union,
A-772, Anand Ganga Kasak,
Bharuch (East),
Bharuch (Gujarat) …Second Party

For the First Party : Shri Jayesh Patel

For the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-30011/1/2002-IR(M) dated 03.01.2002 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether demand of the union to regularize the services of S/Shri (1) Ashvin Hiralal Palanpuria (2) Manish Kanaiyalal Suthar (3) Jagdish kumar Hirabhai Parmar (4) Mahesh kumar Kantilal Mistry (5) Vimal kumar Mohanbhai Patel (6) Prakash Manibhai Patel (7) Kamlesh Ambalal Patel (8) Naresh Narsinhbhai Patel and (9) Sanjay Hargovanbhai Patel as permanent and direct employees of ONGC Ltd., Hazira Project, Surat with time scale of pay of their category of work equivalent to their similar placed regular employees of ONGC Ltd. from first date of entry in the Company, by declaring the contract as 'sham contract' is fair and justified? If so, to what relief the concerned workmen are entitled to and from which date and what other directions are necessary in the matter?"

1. The reference dates back to 03.01.2002. Both the parties submitted their statement of claim and written statement respectively.

2. One of the workmen Ashvinkumar H. Palanpuria on 30.03.2017 vide application Ex. 14 requested the tribunal for withdrawal from the reference, same was allowed and his name was deleted from the reference. The reference was listed for necessary proceedings on 18.04.2017. Since then none responds from either of the parties and the advocate for the second party union stated that remaining workmen have not been in his contact and the union does not want to proceed with the reference.

3. Thus the reference is disposed of as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 17 नवम्बर, 2017

का.आ. 2697.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स भारत पेट्रोलियम कार्पोरेशन लिमिटेड एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 82/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31.10.2017 को प्राप्त हुआ था।

[सं. एल-30012/18/2014-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th November, 2017

S.O. 2697.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 82/2014) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Bharat Petroleum Corporation Ltd. and other and their workman, which was received by the Central Government on 31.10.2017.

[No. L-30012/18/2014-IR (M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 25th September, 2017

Reference : (CGITA) No. 82/2014

1. The Head – HR,
Bharat Petroleum Corporation Ltd.,
At PO Koyali, Tal Dist. Baroda,
Baroda (Gujarat)

2. M/s Samir H. Ghanchi,
At & PO Karamandi,
Tal. Karjan,
Baroda (Gujarat) …First Party

V/s

The President,
Baroda Labour Union,
406/407, City Plaza, 4th Floor,
Opp. Madhyavarthi School, Dandia Bazar,
Baroda (Gujarat) …Second Party

For the First Party : Shri P.I. Shah

For the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-30012/18/2014-IR(M) dated 01.09.2014 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the demand of the union for regularisation of service of Mr. Bhailal Ramabhai Gohil in the establishment of Bharat Petroleum Corporation Ltd. Koyali Installation, Baroda is legal, proper and just? If not, what relief the workman concerned is entitled to?"

1. The reference dates back to 01.09.2014. The matter has been settled between the parties vide settlement Ex. 6/1.

2. Thus the reference is finally disposed of in the light of the settlement Ex. 6/1. The settlement Ex. 6/1 shall be the part of the award.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 17 नवम्बर, 2017

का.आ. 2698.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स भारत पेट्रोलियम कार्पोरेशन लिमिटेड एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 83/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31.10.2017 को प्राप्त हुआ था।

[सं. एल-30012/19/2014-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th November, 2017

S.O. 2698.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 83/2014) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Bharat Petroleum Corporation Ltd. and other and their workman, which was received by the Central Government on 31.10.2017.

[No. L-30012/19/2014-IR (M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 25th September, 2017

Reference : (CGITA) No. 83/2014

1. The Head – HR,
   Bharat Petroleum Corporation Ltd.,
   At PO Koyali, Tal Dist. Baroda,
   Baroda (Gujarat)

2. M/s. Nav Durga Enterprises,
   Amin Khadki, At & PO Karamandi,
   Tal. Karjan,
   Baroda (Gujarat) …First Party

V/s

The President,
Baroda Labour Union,
406/407, City Plaza, 4th Floor,
Opp. Madhyavarthi School, Dandia Bazar,
Baroda (Gujarat) …Second Party

For the First Party : Shri P.I. Shah

For the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-30012/19/2014-IR(M) dated 01.09.2014 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the demand of the union for regularisation of service of Mr. Ramabhai Fatabhai Gohil in the establishment of Bharat Petroleum Corporation Ltd. Koyali Installation, Baroda is legal, proper and just? If not, what relief the workman concerned is entitled to?"

1. The reference dates back to 01.09.2014. The matter has been settled between the parties vide settlement Ex. 6/1.

2. Thus the reference is finally disposed of in the light of the settlement Ex. 6/1. The settlement Ex. 6/1 shall be the part of the award.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 17 नवम्बर, 2017

का.आ. 2699.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स एच. पी.सी.एल. एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 148/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31.10.2017 को प्राप्त हुआ था।

[सं. एल-30011/23/2006-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th November, 2017

S.O. 2699.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 148/2006) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. H.P.C.L. and other and their workman, which was received by the Central Government on 31.10.2017.

[No. L-30011/23/2006-IR (M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 11th October, 2017

Reference : (CGITA) No. 148/2006

1. The Sr. Manager Installation,
HPCL, Jawaharnagar,
Gate No. 10, Koyli,
Vadodara (Gujarat)

2. M/s Avantika L. Salvi,
Proprietor, A/5, Vrindavan Society,
Gorwa, Panchvati,
Vadodara (Gujarat) …First Party

V/s

The President,
Gujarat Rajya Ardgsarjaru Audhyogik Karmachari Sangh,
C/o Prakash H. Pathak, 4, Alap Flats,
Dhamubhai Colony, Opp. Anjali Cinema,
Jawahar Nagar, Vasna Road,
Ahmedabad (Gujarat) – 380007 …Second Party

For the First Party : Shri P.I. Shah

For the Second Party : Shri J.K. Ved

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-30011/23/2006-IR(M) dated 17.07.2006 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the demand of the union for regularisation the services of Shri Y.S. Chikhle and Shri S.S. Patel in the establishment of HPCL, is legal, proper and just? If so, to what relief the concerned workmen are entitled to?"

1. The reference dates back to 17.07.2006. The second party submitted the statement of claim Ex. 6 on 18.04.2007 and the first party submitted the written statement Ex. 10 on 19.09.2008.

2. Thereafter, the case was fixed for evidence of the parties but today on 11.10.2017, Shri Jitendra K. Ved, Honorary President of Gujarat Rajya Ardgsarjaru Audhyogik Karmachari Sangh stated that he wants to withdraw the reference.

3. Thus the reference is finally disposed of as withdrawn.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 17 नवम्बर, 2017

का.आ. 2700.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स भारतीय विमानपत्तन प्राधिकरण के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, गुवाहाटी के पंचाट (संदर्भ संख्या 05/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31.10.2017 को प्राप्त हुआ था।

[सं. एल-11011/10/2016-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th November, 2017

S.O. 2700.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 05/2016) of the Central Government Industrial Tribunal/Labour Court, Guwahati now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Airport Authority of India and their workman, which was received by the Central Government on 31.10.2017.

[No. L-11011/10/2016-IR (M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

IN THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM

Present : Shri M. K. Bhattacharjee, M.A., LL.B.
Presiding Officer,
CGIT-cum-Labour Court, Guwahati.

Ref. Case No. 05 of 2016

In the matter of an Industrial Dispute between :-

Workmen represented by the General Secretary,
Indian Airport Kamgar Union (IAKU), New Delhi …Workmen

-Vrs-

The Management of Airport Authority of India …Management

APPEARANCES :

For the Workman: Mr. G.A. Rudrappa, General Secretary of the Union

For the Management : Mr. P.K.Garodia, Advocate

Mr. P. Sharma, Advocate

Mr. A. Deka, Advocate.

Date of Award : 16.10.2017

AWARD

1. The present reference arose out of an Industrial dispute between workmen represented by their Union namely, Indian Airport Kamgar Union and the management of Airport Authority of India. According to the Central Government, an Industrial Dispute exists between the employer in relation to the Management of Airport Authority of India and the aforesaid trade union and their members and the dispute was referred with the following reference schedule vide No.L-11011/10/2016-IR(M) Date 24.06.2016.

SCHEDULE

"1. Can the management AAI, through its home grown policy of deciding protected workmen supercede the provision of low, under Rule (61) Sub Rule (1) of Industrial Dispute Central Rule, 1957, if no then under what action to be taken? 2. The management went against the order of ALC(C), Delhi in declaring the list of All India Protected workmen under Rule 61(4) of Industrial Dispute (Central) Rule, 1957. If so, is it not arbitrary & violating the law of the soil. 3. Under Rule 61 Sub Rule (2) of Industrial Dispute (Central) rules, 1957 the period of validity of protected workmen is twelve (12) months, can the management make it 60 months on it own? If yes then why. 4. This does not count to unfair Labour practice under Sect 2 (ra) read with Section 25 T of Industrial Disputes Act? If no, then reason thereof."

2. On receipt of the reference from the appropriate Government, this reference case was registered and notices were issued to the parties. On receipt of notice both sides appeared and submitted their written statements.

3. The workmen/Union's case in brief was that their trade union is a registered trade union and operates in the establishment of Airports Authority of India. In para 5 of the claim statement it has been mentioned that there is acute Trade Union rivalry between the Indian Airports Kamgar Union (The Trade Union which has initiated this proceeding) and the Airports Authority Employees Union and the Management recognized the Airport Authority Employee Union. It is claimed that management framed transfer policy for its employees without following the established procedure and the petitioner Union wrote several letters to the management raising the issues. On 12.09.2014 the Union issued a notice for strike to the Respondent management. On 13.05.2015 the Union wrote a letter to the Regional Executive Director, NER, Guwahati for exemption of transfer of protected workmen during pendency of the conciliation proceeding. However the management recognized the office bearers of AAEU, the recognized Union as protected workmen. It is also stated that every year Assistant Labour Commissioner (C) recognizes the requisite number of Office Bearers of the Union which has is initiated through a proceeding but in spite of that the management did not recognize the office bearers of the petitioner Union as protected workmen. When the matter was brought before the Regional Labour Commissioner (C), Guwahati the conciliation proceeding was taken up but when the effort failed, the matter was reported to the appropriate Government, which subsequently raised this reference. Aftrer receipt of the reference notices were issued to the parties and they appeared. The workmen side submitted their claim petition along with copies of certain documents. The management side also appeared and submitted their written statement.

4. The management side has taken the plea that the issues raised by the Union is beyond the jurisdiction of this Tribunal and that the claimant side has suppressed material facts and also misrepresented the facts in the statement of claim. The management side also took the plea that the first question under reference itself is not clear and is not capable of being deliberated and decided. It is further stated by the management that the second question in the reference speaks about violation of order of ALC (C), Delhi in declaring the list of All India Protected Workmen under Rule 61(4) of Industrial Dispute (Central) Rules, 1957. However, no other details of the order is given and hence this question is also unclear. In regard to the third question of the reference the management denied that the period of validity of protected workmen by the management is 60 months. The management also stated that the fourth question is also ambiguous and unclear. On the basis of the pleas raised by the management they prayed for dismissal the claim of the union side.

5. After the matter was posted for evidence of the petitioner trade union, they neither appeared nor adduced any evidence despite repeated chances given to them. Admittedly, the workmen side has not adduced any evidence, meaning thereby that no facts or issue/deprivations alleged by them in their claim statement was proved by the petitioner trade union. There also did not appear any such averment by the OP management in their written statement which could be construed to be an admission of the issue (s) raised by the petitioner trade union. After failure of the petitioner trade union to adduce any evidence to prove their points, the management side submitted that since the petitioner failed to prove any point, they (management) would not lead any evidence.

6. In view of the above, and in particular, in view of non adducing of any evidence by the petitioner trade union and also in view of absence of any admission by the management in respect of issues raised and referred, the reference stands answered in the negative. The reference is accordingly answered with no relief award.

Send the Award to the Ministry immediately as per procedure.

Given under my hand and seal of this Court on this 16th day of October, 2017 at Guwahati.

M. K. BHATTACHARJEE, Presiding Officer

नई दिल्ली, 17 नवम्बर, 2017

का.आ. 2701.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स नुमालीगढ़ रिफाइनरी लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, गुवाहाटी के पंचाट (संदर्भ संख्या 15/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.11.2017 को प्राप्त हुआ था।

[सं. एल-30012/49/2011-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th November, 2017

S.O. 2701.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 15/2012) of the Central Government Industrial Tribunal/Labour Court, Guwahati now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Numaligarh Refinery Limited and their workman, which was received by the Central Government on 08.11.2017.

[No. L-30012/49/2011-IR (M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

IN THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM

Present : Shri M. K. Bhattacharjee, M.A., LL.B.
Presiding Officer,
CGIT-cum-Labour Court, Guwahati.

Ref. Case No. 15 of 2012

In the matter of an Industrial Dispute between :-

Tarani Sarmah

-Vrs-

The Management of NRL, Assam

APPEARANCES :

For the Workman : Mr. A. Dasgupta, Sr. Advocate,
Mr. A. Kundu, Advocate.

For the Management : Sri S.N. Sarma, Sr. Advocate,
Sri A. Sarma, Advocate,
Sri A. Jahid, Advocate.

Date of Award : 30.10.2017

AWARD

1. Vide order dated 23.04.2012, the appropriate government, that is, the Ministry of Labour, Government of India made the following reference to this tribunal for decision:- ***"Whether the action of the management of M/s. Numaligarh Refinery Limited, Guwahati in terminating the services of Shri Tarani Sarmah w.e.f May, 2000 is legal and justified? What relief the workman is entitled to?"***

2. On receipt of the reference, notices were sent to the workman as well as the management. Both sides appeared and submitted their claim statement and written statement respectively. It may be mentioned here that no trade union is party to this reference and initiation of the proceeding was done by the workman Sri Tarani Sarmah.

3. The basic facts averred in the claim statement of the workman was that on 05.11.1992 he was appointed as Care Taker in the Guest House of M/S IBP Company Ltd. in Guwahati which was the implementing Agency of Numaligarh Refinery Ltd. Till the end of the year 1993 he continued to work in the aforesaid Guest House at Guwahati and thereafter he was engaged in the Office of the Executive Director, NRL as a Casual Peon till March, 1995. Subsequently he was taken in the Finance Department of the NRL where he served till 1997 but suddenly in the month of May, 2000 he was disengaged without any written order. After the aforesaid disengagement, the workman Sri Tarani Sarmah filed W.P. (C) No.4424/2000 in the Hon'ble Gauhati High Court. However, the aforesaid Writ Petition was held to be not maintainable on the ground that disputed facts in the matter needed to be adjudicated upon. It was also stated that thereafter the workman approached the concerned Conciliation Officer under the Industrial Dispute Act seeking his regularization as a regular employee of NRL. It was further stated that 17 numbers of similarly situated persons were already regularized by the NRL though they were junior to the workman. However, the conciliation did not succeed and a failure report u/s 12 (4) of the I.D.Act, 1947 was sent to the appropriate Government and the appropriate Government referred the matter to this Tribunal.

4. The management of NRL submitted written statement contesting the claims of the workman and the gist of the management's written statement was that the workman was never engaged by the NRL as a casual employee. He was engaged by a Contractor and hence, he being a contract labour, there was no employer employee relation between the NRL and the workman. It was elaborated by the management that the workman was engaged through a Contractor named Sri R.N.Taye and the contract allotted to Sri R.N.Taye was extended till the year 2000 and after the expiry of the said contract new tender was issued. It was specifically alleged by the management of NRL that the workman was engaged by the contractor Sri R.N.Taye who disengaged the workman in the year 2000 and hence NRL has nothing to do with the engagement or disengagement of the workman. The management has also raised another plea that the reference was made after more than 11 years and hence, the matter has become stale and does not deserve to be maintained. In brief, the management of NRL completely denied having appointed the workman Tarani Sarmah ever in their establishment as an employee. In respect to the copies of certain documents submitted by the workman along with the claim statement, the management stated in para-28 to the written statement that as Annexure-A, B, C were always maintained by the Contractor, the management had no control over the same and the documents mentioned in Annexure-D to J looked like internal approval Notes though such documents were not available in the Office. The management also prayed to decide the question of maintainability of the reference by framing preliminary issue.

5. Thereafter, vide order dated 09.12.2013 my learned Predecessor held that there was no necessity of entertaining the prayer of the management for framing preliminary issue on the maintainability of the reference and hence, the prayer for framing preliminary issue on the maintainability of the reference was rejected. Against the said order the management filed Writ Petition [W.P (c) 628/2014] and Vide order dated 15.11.2014, Hon'ble Gauhati High Court disposed of the aforesaid petition directing this Tribunal to frame the issue of maintainability raised by the management as a preliminary issue and decide the same in accordance with the law. This is how the preliminary issues were framed and both the sides led evidence on the following preliminary issues:-

"1. Whether a contract labour can raise an industrial dispute against the principal employer without there being prohibition of employment of contract labour Under CLRA Act?

2. Whether the present dispute referred by the government is a stale dispute?

3. Whether the present Reference is maintainable?"

6. The management side examined two witnesses namely Sri Kajal Saikia , Chief Manager (ER/PR) as MW.1 and Sri Kaustabh Sharma as M.W.2 and the workman side examined only the concerned workman Sri Tarani Sarmah.

7. Before entering into the evidence adduced by the parties, let me briefly summarize the argument put forward by the learned Sr. Counsels of both the sides. It was admitted by the learned Sr. Counsels of both the sides that except the copies of the order/judgment of the Hon'ble High Court passed in connected Writ Petitions, no other documents were legally proved in this matter since the documents filed by the parties were just photo copies and were not proved as per law. The learned Sr. Counsel of the workman side also admitted that the photo copies of the documents which the workman side submitted along with his evidence-in-chief on Affidavit were not legally proved and hence, the Tribunal legally can not take cognizance of such documents. It was agreed by the parties that the decision on the preliminary issues in this reference, therefore, would have to be made on the basis of the oral testimony vis-à-vis the connected legal positions. It may be mentioned here that during argument, learned Sr. advocate appearing for the management, attracted my attention to the fact that since the year 2001 the concerned workman was working as an office assistant in Cotton College, Guwahati and in the year 2007 that job had become regularized. It was also claimed

that the workman had intentionally concealed the fact of his engagement in Cotton College since 2001 before all the forums.

8. Management witness No.1, Sri Kajal Saikia, Chief Manager in NRL deposed that because of the long delay alone, the reference can be held to be not maintainable. He further stated that at no point of time the workman Tarani Sarmah was appointed by the management. He was engaged by a contractor named Sri R.N.Taye and he was paid wages by the Contractor. He further stated that while the Refinery was under construction in the District of Golaghat, the Office, located at Guwahati, was overseeing the construction work of the Refinery and in that period no permanent workman was recruited for running the Refinery and for running day to day affairs of the office at guwahati service contracts were used. The witness submitted photo copies of certain documents but since these were not legally proved, this Tribunal could not take cognizance of these documents. However, in his oral testimony the witness has stated that the workman was engaged by the contractor and at no point of time he was engaged by the NRL and hence, there was no relation of employer and employee between the management and the NRL and the workman. During cross-examination, the witness admitted that the documents submitted along with evidence-in-chief on Affidavit were mere photo copies and hence, not legally admissible. The witness however denied the suggestion that the workman Tarani Sarmah was not a contract labourer. Management witness No.2, Sri Kaustav Sarmah also deposed in similar line and there was no specific additional facts or statements in his examination in-chief apart from what had already been stated by the MW.1. Both sides admitted that the documents submitted (except the copies of certified copy of judgements passed by Hon'ble Gauhati High Court in connected Writ petitions) by both sides are not admissible and hence not to be considered for deciding the matter.

9. The workman side examined only the concerned workman Tarani Sharma. He deposed that he was an employee of NRL and served as Office Peon and Messenger. He however also stated that he was appointed, initially, as Care Taker in the Guest House of M/s I.B.P Company Ltd. which was the implementing Agency of NRL where he served till 1993 and thereafter he was engaged in the Office of the Executive Director of NRL as a Casual Peon. Subsequently he was taken to the Finance Department of the NRL and all on a sudden in the month of May,2000 he was disengaged and thrown out of service. He further stated that thereafter he preferred a Writ Petition (C) No.4424/2000 before the Hon'ble High Court for relief but vide order dated 19.06.2006 Hon'ble High Court disposed of the same by holding that the same was not maintainable as disputed facts were involved in the matter. Against the aforesaid order a Writ Appeal was filed numbering W.A. No.374/2006 which was disposed of vide order dated 01.11.2006 and the workman was granted an opportunity to avail the remedies available to him as per law. The photo copies of the certified copy of the aforesaid two orders of the Hon'ble Gauhati High Court were also submitted by the workman. It may be mentioned here that learned Sr. Counsels of both the sides admitted that since these are the photo copies of the certified copies of the judgments these can be treated as documents submitted in present matter. In paragraph-5 of the evidence in-chief on Affidavit of the workman he stated that vide Office Circular dated 04.04.1995 he was transferred to the Finance and Accounts Department. He further stated that on 27.04.1995 the General Manager (Personnel) of NRL put up a proposal by which some workers including him were treated as a category of higher than unskilled worker and accordingly his wages was fixed. He also stated that his name was figured as sub staff attached to MD DIR (F), EA to MD, Asstt. Co. Secy. & System Analyst. The workman also stated in his evidence that Sri R.N.Taye who was shown as his Contractor was himself an employee of the NRL and was engaged as casual Office Assistant with effect from 13.11.1996 and both he as well as Sri R.N.Taye were employees of NRL after its commission. However, all the aforesaid facts stated by him were not supported by any legally admissible document. The workman witness further stated that 16 other persons who were junior to him and were similarly placed and were working under NRL were regularized by the NRL. In the last paragraph of evidence in-chief the witness stated that he used to sign the Attendance Register and drew salary along with Sri R.N.Taye. However the management of NRL surprisingly projected Sri R.N.Taye as a Contractor and in the month of September,1999 by doing some paper works against his wishes he was shown as contract labour under Sri R.N.Taye. During cross-examination the workman admitted that in the year 1992 he joined in M/S I.B.P Company as a Care Taker in the Guest House. He also admitted that he does not have any appointment letter to show that he was appointed by the NRL in their Company. He also admitted that in the month of October,2000 NRL started its production and that he was disengaged from May, 2000. He also admitted after his disengagement from the NRL Project he started to work in Cotton College between the 2001 to 2007 and ultimately by participating in the selection process he was selected in the Cotton College as a Lower Division Assistant in the regular post. The witness also admitted that he had not submitted any such document to show that NRL directly paid his wages. The witness also admitted the suggestion of the management that he worked as contract labour under Sri R.N.Taye in the year 1999 to 2000.

10. Opening the argument on behalf of the management for NRL learned Sr. Counsel Mr. S.N.Sarma submitted that the workman was as a contract labour engaged through a contractor and hence, the question of him being seeking any relief from Labour Court is subject to issuance of Prohibition Notification u/s 10(1) of the CLRA Act. In this connection he referred to the judgment of Hon'ble Supreme Court passed in "**Steel Authority of India Ltd—Vrs—National Union Waterfront Workers reported in AIR 2001(SC) 3527".** Referring to the cross-examination part of

the workman the he further submitted that the workman himself had admitted that during 1999-2000 he was engaged through contractor. The learned Sr. Counsel also referred to the decision of the **Hon'ble Gauhati High Court In "Indian Oil Corporation Ltd. ---Vrs--- Presiding Officer and Ors reported in 1998(2) GLT 67"** wherein the Hon'ble High Court held that in case of labours employed by the Contractor in the Bottling Plant of IOC there was no relationship of employer and employees between the IOC and the Contract Laboures and hence the Reference was not maintainable. Another ground agitated by the learned Sr. Counsel for the management was that the matter before this Tribunal is a stale matter and hence, it could not be subject matter of reference u/s 10 of the I.D.Act. In this connection he referred to a decision of "**Hon'ble Supreme Court in Nedungadi Bank Ltd. –vrs—K.P.Madhavankutty reported in (2000) 2 SCC 455".** Learned Sr. Counsel for the management went on to argue that if the preliminary issue raised by the management succeeds, the reference would stand disposed of with a no relief award.

11. Learned Sr. Counsel Mr. A.Dasgupta appearing for the workman submitted that the delay in the initiation of the reference was not because of any fault of the workman. He further submitted that in case of contract labour, Law says that the reference before the Labour Court can be made either by the Union of the employees or in case of issuance of Notification u/s 10(A) of the CLRA Act, by the concerned workman. He however hastened to add that in respect of engagement of contract labour if it is found that the arrangement of engaging the workman as a contract labour was actually a sham arrangement and in reality the workman was actually working directly under the management then there was no necessity of issuance of Prohibition u/s 10 (A) of the CLRA Act. Learned Sr. Counsel for the workman also referred to a decision **of the Hon'ble Supreme Court in "Hussainbhai" reported in AIR 1978 SC 1410** wherein it was held that when the engagement of labour as a contract labour is only a paper arrangement, such arrangement has to be discouraged and in such case the relationship between the employer and the employee should be held to be present. Learned Sr. Counsel for the workman also stated that in present case it would be evident from the circumstances that engagement of the workman as contact labour under one contractor R.N.Taye was nothing but a paper transaction and hence, in this case there appeared to be relationship of the employee and the employer between the workman and the management of NRL. The workman was, therefore, required to show that his engagement as a contract labour was nothing but a paper arrangement.

12. Keeping in view the aforesaid submissions made by both the sides I shall now scrutinize the evidence and decide the following preliminary issues raised by the management.

"1. Whether a contract labour can raise an industrial dispute against the principal employer without there being prohibition of employment of contract labour Under CLRA Act?

2. Whether the present dispute referred by the government is stale dispute?"

13. Admittedly, the documents submitted by the parties were mere photo copies and hence, as agreed by both sides, would not be considered as evidence. In respect of the issue of the dispute being a stale one, it appeared that the delay could not be attributed to the workman. After his disengagement, in the month of May, 2000, the workman filed Writ petition before the Hon'ble Gauhati High Court which was held to be not maintainable. In the Writ Appeal filed against the aforesaid order, the workman was given an opportunity to approach the appropriate authority for redressal of his grievance. Admittedly, soon after, the workman approached the concerned Labour Commissioner. Hence the delay in making of the reference could not be attributed to the workman. The refrence, therefore, could not be held to be stale.

14. Let me now come to the first preliminary issue regarding the maintainability of the reference in view of the existing provisions of law. It may be mentioned here that the learned Senior Counsel appearing for the workman admitted that an individual contract labour can seek relief under the provisions of the Industrial Dispute Act if the arrangement of engagement of contract labour appeared to be a mere paper arrangement. Since the photo copies of some documents submitted by the parties were agreed to be not admissible, the only evidence in the matter are oral testimonies of the witnesses. Consistent stand of the management witnesses was that at no point of time the workman was directly engaged by the NRL and he was a mere contract labour engaged by the contractor. In his examination of chief, the workman stated that he was directly engaged by the management and was disengaged illegally in the month of May, 2000. Some cross examination part of the workman would be relevant to decide the point. The following part of his (workman's) cross-examination appeared to be relevant:- *" In 1992 I joined in M/S I.B.P Company Ltd as a caretaker in their guest house. The first agreement was signed by the establishment of NRL at Numaligarh in the year 1993. I worked in the I.B.P Company to the end of year 1993. We were taken to NRL by I.B.P Company. I donot have any appointment letter to show that I was appointed by NRL. In October, 2000 NRL Refinery has started it's production. It is a fact that I was disengaged from May, 2000 and not after October, 2000. I worked in Cotton College for the year 2001 to 2007. Ultimately by participating in selection process I was selected in the Cotton College as L.D.A in the regular post…….I have not submitted any such document along with evidence to show that NRL directly paid my wages. It is a fact that I worked as contract labourer under R.N.Taye for the year 1999- 2000."*

From the aforesaid it appeared that there was clear admission by the workman that from the year 1999 to 2000 he worked as contract labourer under R.N.Taye. The only point which needs consideration was whether such appointment as contract labourer was a mere paper arrangement. By referring to the evidence (examination-in-chief) of the workman the learned Senior Counsel submitted that the workman was engaged directly by the management in various capacities and hence his appointment as contract labourer was a mere paper arrangement. However, on scrutiny of the evidence it was seen that there was no acceptable evidence to show that the engagement of the workman as contract labourer was a mere paper arrangement. He admitted being a contract labour under a contractor in the year 1999 to 2000 till his disengagement. In this connection it may also be mentioned that as per his own admission (during cross-examination) from 2001 to 2007 he worked in Cotton College. This fact was concealed by him in his claim statement, rather in paragraph 19 of the claim statement he stated that immediately after his disengagement he had no other source of income till 16.10.2007 when he was engaged as L.D.A in Cotton College.

15. In view of the above, it appeared that there appeared no circumstances which could lead to an inference that the engagement of the workman as contract labourer was a mere paper arrangement. Admittedly, no trade union is a party in the proceeding. It is also an admitted fact that there was no issuance of Prohibition u/s 10 (A) of the CLRA Act. Hence, it is held that the concerned workman being a contract labourer cannot raise an industrial dispute against the principal employer without there being prohibition of employment of contract labour under CLRA Act and also there being no proof/ circumstances to show that the engagement as contract labourer was a mere paper arrangement. The preliminary issue no. 1 raised by the management, therefore, stands decided in favour of the management.

16. In view of the above, with the aforesaid decision of the preliminary issue, the reference is not maintainable. The reference is therefore, disposed of with a no relief award/order in view of the same being not maintainable.

Send the no relief award to the appropriate government immediately.

Given under the hand and seal of this Tribunal this 30th day of October, 2017.

M. K. BHATTACHARJEE, Presiding Officer

नई दिल्ली, 17 नवम्बर, 2017

का.आ. 2702.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स कोच्ची रिफाइनरीज लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, एर्नाकुलम के पंचाट (संदर्भ संख्या 25/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17.11.2017 को प्राप्त हुआ था।

[सं. एल-30011/38/2007-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th November, 2017

S.O. 2702.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 25/2007) of the Central Government Industrial Tribunal/Labour Court, Ernakulam now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Kochi Refineries Limited and their workmen, which was received by the Central Government on 17.11.2017.

[No. L-30011/38/2007-IR (M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present : Shri.K. Sasidharan, B.Sc., LLB, Presiding Officer

(Friday the 14th day of July, 2017/23rd Ashadha, 1939)

ID 25/2007

Union : The Cochin Refinery Workers' Association (CRWA),
Ambalamughal, Kochi Refinery,
KOCHI (KERALA) – 682 302.

By Adv. Shri. K. S. Madhusoodanan

Addl. Union : The Refinery Employees' Union (KRL),
Reg. No.7/10, Ambalamughal,
Kochi – 682 302.

(Impleaded as Additional Union as per Order dated 10.03.2008 in IA No.54/2007)

By Advs. Shri. P. Ramakrishnan & Shri. C. Anil Kumar

Management : The General Manager(HRM),
Kochi Refineries Ltd.,
Ambalamughal, Cochin,
COCHIN – 682 302.

By M/s. Menon & Pai

This case coming up for final hearing on 11.07.2017 and this Tribunal-cum-Labour Court on 14.07.2017 passed the following :

AWARD

This is a reference under clause (d) of sub-section(1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (Act 14 of 1947).

2. The dispute referred for adjudication is:

'Whether the action of the management of M/s KRL of M/s BPCL in fixing the basic pay on promotion to managerial position of first line Supervisors at a rate less than what they were drawing before their promotion is fair and justifiable? If not, to what relief they are entitled?'

3. After receipt of the reference Order No.L-30011/38/2007-IR(M) dated 09.07.2007, issued by the Ministry of Labour, Government of India, summons was issued to the parties to appear in person, submit pleadings, produce documents and adduce evidence to substantiate their respective contentions. On receipt of the summons, the parties entered appearance through counsel and submitted their pleadings.

4. The contentions in the claim statement submitted by the union No.1 in brief are as follows:-

On 18.07.2002, a conciliation settlement under Section 18(3) of the Industrial Disputes Act, 1947 was entered into between the management and the union before the Regional Labour Commissioner (C), Kochi. As per clause (13) (C) of the settlement which confers 4% of basic pay towards annual increment for workmen in the grades V, VI and VII. As per clause 14, the workmen on promotion to higher grades will be eligible for promotional increment of 2% of the basic pay, over and above their normal rate of annual increment, effective from 01.08.1998.

5. When the pay was fixed for those promoted from workmen to 'A' grade officers after 01.08.1998, their basic pay was fixed much less than what they were drawing before promotion and it was contrary to the terms and conditions of the long term settlement dated 18.07.2002. Therefore a group of 66 such affected officers submitted a representation before the Managing Director highlighting their grievance. Subsequently meetings were held between the office bearers of the officers' association with the Executive Director(HR) and DGM(Personnel) to resolve the anomaly in pay fixation. But the management unilaterally and arbitrarily fixed the pay of the newly promoted officers much below their actual eligibility. By this, there is reduction of Rs.500/- to Rs.1,500/- per month towards basic pay alone since 01.08.1998.

6. Therefore the officers' association as per letters dated 22.01.2003 and 14.08.2003, requested the management to rectify the anomaly in pay fixation. The management failed to consider the request made by the association. Instead they justified the unreasonable and arbitrary pay fixation and communicated their stand as per e-Mail dated 26.03.2004, sent by the General Manager (HR). They admitted a small reduction in the basic pay and informed to view the matter in a wider perspective stating that on promotion from workman to the officer, an employee is entitled to additional benefits which are superior. Against this unreasonable stand, the officers' association submitted a complaint before the General Manager(HR) on 24.06.2004.

7. The long term settlement dated 18.07.2002 in clear and unambiguous terms confers 6% promotional increment under clause 13(C) and 14, and the concerned workmen are entitled to enjoy such benefits. The management has no right to deny the promotional increment to the workmen. They cannot unilaterally deny the right conferred on the workmen as per the settlement. Therefore union No.1 has requested to pass an award directing the management to

re-fix the pay of those persons promoted from workmen to 'A' grade officers after 01.08.1998 in accordance with the terms and conditions in the conciliation settlement dated 18.07.2002 and to disburse the arrears due to the concerned.

8. As per the Order dated 10.03.2008 in IA No.54/2007, additional union No.2 was impleaded. The contentions in the claim statement filed by union No.2 in brief are as follows:-

Union No.2 is a recognized union representing a sizable number of workmen in the management. The service conditions of workmen are governed by the standing orders applicable as well as various long term settlements entered into between the unions and the management from time to time. The affected workmen in this dispute are those who are promoted from workmen category to the management category.

9. As per clause 8.3 of the standing orders applicable to the workmen, basic pay on promotion to a higher position of higher responsibility shall be fixed by the Managing Director or Refinery Manager, within the specified grade. However, normally, upon promotion a workman's pay shall be fixed at the minimum of his new grade pay, providing this, resulting in a minimum of 10% increase in his basic pay. As per the subsequent long term settlement dated 28.08.2002, it was agreed between the management and the unions that the workmen in grades V, VI and VII are entitled for annual increments @ 4% of the basic pay. On promotion, the promotional increment @2% of the basic pay over and above their normal rate of annual increment will be given to the workmen with effect from 01.08.1998. Clauses 13 and 14 of the long term settlement provide for the same. Therefore at the time of promotion a workman is entitled to a minimum increase of 6% of the basic pay. Even though the long term settlement was signed on 28.02.2002, the benefits to the workmen were given with retrospective effect from 01.08.1998. In respect of the employees who were promoted during the period from 01.08.1998, the basic pay was re-fixed not in accordance with the long term settlement dated 28.08.2002. The workmen who are affected by the improper fixation of basic pay on promotion, are the employees who were promoted from workmen grade VII to the 1st line supervisory position ('A' grade officer) after 01.08.1998.

10. In their case while re-fixing the basic pay, the management has not followed the relevant clauses applicable to them for the fixation of basic pay on promotion as per the long term settlement. Consequently their basic on re-fixation in the officer's grade was reduced considerably and their loss is a recurring loss. From 01.08.1998 to 01.06.2008, about 176 employees were affected by the wrong re-fixation of basic pay. Due to the wrong re-fixation of basic pay, the loss sustained to each employee in a month would be about Rs. 2,000/-, consequently many benefits attached to the position of last drawn pay to such employees were lost.

11. The reduction in the basic pay on promotion is illegal and unjustifiable. There is no precedent, entitling the management to reduce basic pay on re-fixation. In respect of employees who were promoted after signing the long term settlement from grade VII to 'A' grade officers, the wages payable to them was reduced and consequently the basic pay become lesser than what they were actually drawing prior to their promotion. The management has not issued any notice to the employees whose basic pay was reduced on promotion. The long term settlement dated 28.08.2002 or the provisions of the standing orders never contemplate any such reduction. The action of the management is illegal and unjustifiable. The employees who will be promoted in future also will be affected by the said mode of fixation adopted by the management.

12. Therefore union No.2 has requested to pass an award directing the management to re-fix the basic pay of the employees of grade VII who were promoted to 'A' grade officers from 01.08.1998, in accordance with the terms and conditions in the standing orders and the long term settlement dated 28.08.2002 and to direct them to pay all monetary and other benefits consequent thereto.

13. The contentions in the written statement filed by the management in brief are as follows:-

The management has denied all the allegations and averments in the claim statements filed by the unions except those that are specifically admitted. The employees involved in the dispute belong to officers category. The dispute is raised by a trade union representing the workmen in the company. The unions have no legal right to raise an industrial dispute for espousing the cause of the employees in the officers category. Therefore the dispute raised at the instance of the unions is not sustainable in law. This Tribunal has no jurisdiction to adjudicate an issue relating to the persons in the non-workmen category.

14. The officers involved in this dispute have accepted the offer of the management for promotion from workmen category to the 1st line officer, wherein the basic pay of the employees in the promoted post is mentioned. Having accepted the promotion, knowing fully well about the basic pay in the promoted post, they are estopped from challenging the reduction in basic pay consequent on their promotion especially for the reason that they are free to decline the offer of promotion. The management has requested to consider the validity of the reference as a preliminary point before considering the merits of the case.

15. The management of erstwhile Kochi Refineries Limited and the unions representing the workmen in the company had signed a conciliation settlement on 28.08.2002 revising the pay and allowances of workmen with effect

from 01.08.1998. The erstwhile Kochi Refineries Limited was merged with Bharat Petroleum Corporation Limited in August, 2006 and is presently know as BPCL-Kochi Refinery. In terms of the settlement, the basic pay was revised by merging Dearness Allowances (DA) at 1893 point as on 01.08.1998. On revision of pay as above, the basic pay of the workmen as on 31.07.1998 has been fixed in the corresponding revised pay structure, taking the aggregate of the following:

a.	Basic pay in the existing scale of pay as on 31.07.1998
b.	Merger of corresponding VDA as on 01.08.1998 (AICPIN 1893)
c.	The existing VDA for 27 points @ Rs. 2/- per point (Rs. 54/-)
d.	Fitment benefit @ 20% of (a), (b), & (c) above
e.	The existing special allowance of Rs.150/-
f.	Additional fitment benefit at the following rates: *35% of base pay as on 31.07.1998 for grades I & II* *40% of base pay as on 31.07.1998 for grades III & IV* *45% of base pay as on 31.07.1998 for grades V & VI* *55% of base pay as on 31.07.1998 for grade VII*
g.	Service increment @ 0.5% of pre-revised Basic for every completed year of service in the Company as on 31.07.1998. (All employees who have completed service of more than or equal to 6 months as on 31.07.1998 will be given service increment of 0.5% of pre-revised basic, and service of less than 6 months will not be entitled to any service increment.).
h.	2 increments (cumulative basis) on revised Basic pay as on 01.08.1998.

16. In so far as the managerial employees are concerned, revision of pay is effected by administrative orders issued by the company periodically following the Government of India directives. As far as the officers are concerned, their salary has been revised with effect from 01.01.1997 merging with basic pay, dearness allowance as on 31.12.1996, at 1708 points. Accordingly, the pay of officers was fixed in the corresponding revised pay structure by taking the aggregate of the following:

a)	Basic pay as on 31.12.1996 and Personal Pay as on 01.01.1997
b)	Corresponding DA at AICPI of 1708 (base 1960=100) as on 01.01.1997
c)	20% of (a)
The aggregate of (a), (b) and (c) is fixed into the Revised scale of pay.	

17. From the above, it may be noted that the salary structure of officers and workmen are totally different. As already stated, at the time when the officer's pay was revised with effect from 1.1.1997, the Dearness Allowance merged was at 1708 points and the DA was at 0%. Due to the increase in Consumer Price Index (CPI), the CPI as on 01.08.1998 was 1983 points and the CPI applicable to the employees in the officer category was 185 points (1983-1708) and the Dearness Allowance enjoyed by them was 10.83%. Since the pay of employees in workmen category was revised with effect from 01.08.1998 and their Dearness Allowance with CPI at 1983 points was fully merged with their Basic Pay, their Dearness Allowance as on 01.08.1998 was 0%. Accordingly as on 01.08.98, the rate of Dearness Allowance enjoyed by officers was 10.83% whereas it was 0% for workmen. This would show that the monitory component of 185 points enjoyed by the officers' category had already gone into the merged Dearness Allowance of workmen and therefore on a comparative basis, for a workman the Basic Pay was more and Dearness Allowance less than the Officers and for an Officer the Basic Pay was less and Dearness Allowance more than the workman.

18. When a workman in grade VII, the senior most grade in workman category, gets promoted to the officer category, his pay will have to be fixed in the promoted post. The long term settlement provides promotional increment at the rate of 6% for those in the 7^{th} grade. Since the rate of Dearness Allowance was different for officers and

workmen as stated above, there arose an anomalous situation when their pay was fixed in the officer category upon promotion. If their basic pay was worked out as per provision in the workmen category and granted dearness allowance at the rate applicable to officers' category, they would have been enjoying a double benefit, i.e., they will get the benefit of both the following:

(i) Enhanced Basic pay for 185 points of CPI already merged with the Basic pay as workmen on 01.08.1998

(ii) Dearness allowance @ 10.8% of Basic pay for 185 points of CPI extended to officers, accrued form the gradual increase of CPI from 01.01.1997.

The monitory component of these 185 points having already been enjoyed by the promotees while they were in the workmen category had to be excluded while reckoning their pay in the promoted post in officers category. Moreover such increase would have had a cascading effect resulting in a situation where the juniors would be enjoying higher pay than their seniors.

19. That apart, as lesser dearness allowance (1708 points) was merged in the case of officers on 01.01.2008 than the dearness allowance (1893 points) merged in the case of workmen on 01.08.1998, with the variations in the dearness allowance, the differential percentage will also vary and therefore the monitory equivalent would not be a constant figure always. This can be explained by the following statement showing the difference in the dearness allowance rates of officers and workmen in each quarter since December, 1996 (IVth quarter of 1996):

Quarter & Year	AICPI (Average)	DA of Officers		DA of Workmen		
		AICPI considered for DA	DA Rate (%)	Slab	DA Rate (%)	
Oct.-Dec. 1996	1668	Upto 3500	51.8	Upto 3500	51.8	
		3501-6500	38.8	3501-6500	38.8	
		6501-9500	31.1	6501-9500	31.1	
		Above 9500	25.9	Above 9500	25.9	
Officers' salary was revised from 01.01.1997 merging DA as on 31.12.1996, at 1708 points with Basic pay.						
		After merging 1708 points	DA Rate ($\frac{C*100}{1708}$)			
Jan.-Mar. 1997	1708	0	0	Upto 3500	55.4	
				3501-6500	41.5	
				6501-9500	33.2	
				Above 9500	27.7	
Apr.-Jun. 1997	1726	18	1.1	Upto 3500	57	
				3501-6500	42.7	
				6501-9500	34.2	
				Above 9500	28.5	
Jul.-Sep. 1997	1737	29	1.7	Upto 3500	58	
				3501-6500	43.5	
				6501-9500	34.8	
				Above 9500	29	
Oct.-Dec. 1997	1762	54	3.2	Upto 3500	60.3	

				3501-6500	45.2	
				6501-9500	36.2	
				Above 9500	30.1	
Jan.-Mar. 1998	1794	86	5	Upto 3500	63.2	
				3501-6500	47.4	
				6501-9500	37.9	
				Above 9500	31.6	
Apr.-Jun. 1998	1870	162	9.5	Upto 3500	70.1	
				3501-6500	52.6	
				6501-9500	42.1	
				Above 9500	35	
Jul. 1998	1893	185	10.8	Upto 3500	72.2	
				3501-6500	54.1	
				6501-9500	43.3	
				Above 9500	36.1	
Workmen's salary was revised from 1.8.1998 merging DA as on 31.07.1998, at 1893 points with Basic pay.						

Quarter & Year	AICPI (Average)	DA of Officers		DA of Workmen		Difference (D-F)
		AICPI considered for DA	DA Rate (%)	Slab	DA Rate (%)	
A	**B**	**C**	**D**	**E**	**F**	**G**
Aug.-Sep. 1998	1893	185	10.8	NIL	0	**10.8**
Oct.-Dec. 1998	2010	302	17.7	117	6.2	**11.5**
Jan.-Mar. 1999	2122	414	24.2	229	12.1	**12.1**
Apr.-Jun. 1999	2077	369	21.6	184	9.7	**11.9**
Jul.-Sep. 1999	2051	343	20.1	158	8.3	**11.8**
Oct.-Dec.1999	2087	379	22.2	194	10.2	**12.0**
Jan.-Mar. 2000	2143	435	25.5	250	13.2	**12.3**
Apr.-Jun. 2000	2123	415	24.3	230	12.2	**12.1**
Jul.-Sep. 2000	2156	448	26.2	263	13.9	**12.3**
Oct.-Dec.2000	2186	478	28	293	15.5	**12.5**
Jan.-Mar. 2001	2207	499	29.2	314	16.6	**12.6**
Apr.-Jun. 2001	2192	484	28.3	299	15.8	**12.5**
Jul.-Sep. 2001	2209	501	29.3	316	16.7	**12.6**
Oct.-Dec.2001	2278	570	33.4	385	20.3	**13.1**

Jan.-Mar. 2002	2309	601	35.2	416	22	**13.2**
Apr.-Jun. 2002	2304	596	34.9	411	21.7	**13.2**
Jul.-Sep. 2002	2315	607	35.5	422	22.3	**13.2**
Oct.-Dec.2002	2368	660	38.6	475	25.1	**13.5**
Jan.-Mar. 2003	2401	396	40.6	508	26.8	**13.8**
Apr.-Jun. 2003	2384	676	39.6	491	25.9	**13.7**
Jul.-Sep. 2003	2422	714	41.8	529	27.9	**13.9**
Oct.-Dec.2003	2460	752	44	567	30	**14.0**
Jan.-Mar. 2004	2475	767	44.9	582	30.7	**14.2**
Apr.-Jun. 2004	2482	774	45.3	589	31.1	**14.2**
Jul.-Sep. 2004	2491	783	45.8	598	31.6	**14.2**
Oct.-Dec.2004	2549	841	49.2	656	34.7	**14.5**
Jan.-Mar. 2005	2586	878	51.4	693	36.6	**14.8**
Apr.-Jun. 2005	2583	875	51.2	690	36.5	**14.7**
Jul.-Sep. 2005	2598	890	52.1	705	37.2	**14.9**
Oct.-Dec.2005	2641	933	54.6	748	39.5	**15.1**
Jan.-Mar. 2006	2700	992	58.1	807	42.6	**15.5**
Apr.-Jun. 2006	2715	1007	59.0	822	43.4	**15.6**
Jul.-Sep. 2006	2739	1031	60.4	846	44.7	**15.7**
Oct.-Dec.2006	2822	1114	65.2	929	49.1	**16.1**
Jan.-Mar. 2007	2884	1176	68.8	991	52.4	**16.4**
Apr.-Jun. 2007	2907	1199	70.2	1014	53.6	**16.6**
Jul.-Sep. 2007	2922	1214	71.1	1029	54.4	**16.7**
Oct.-Dec.2007	3006	1298	76	1113	58.8	**17.2**
Jan.-Mar. 2008	3050	1342	78.6	1157	61.1	**17.5**
Apr.-Jun. 2008	3065	1357	79.4	1172	61.9	**17.5**

The above statement shows that when the All India Consumer Price Index increases, the differential rates of dearness allowance of officers and workmen also increases and when the All India Consumer Price Index decreases, the differential rates would also decrease. The present difference in the dearness allowance rate is 17.5%. As a result of this, exclusion of monitory value of 10.83% alone would not remedy the situation.

20. It is submitted that when employees from one pay structure are fitted into another structure, protection has to be given to their total emoluments, i.e., basic pay, promotional increment and dearness allowance and not to their basic pay only. It is submitted that the basic feature of fixation of pay in the higher grade must be to ensure that their total emoluments, including the promotional increment in the lower grade are not reduced. Such protection has been ensured in this case also and their total emoluments listed above have been bifurcated into Basic Pay and DA in the promoted post of Officer Grade-A and accordingly no employee has suffered any monitory loss. This procedure was followed under the management in the past also, in similar cases of pay fixation of workmen on their promotion to officer – A grade, consequent to the revision of salary of workmen. This can be easily explained by the following statement showing the **fixation of pay of a workman promoted to officer – A grade on 01.02.1999:**

A	Basic Pay as workman	:	(Rs.) 13949
B	Promotional increment – 6% of BP	:	837
	Total (A + B)	:	14786
C	DA (for A+B) @ 12.1%	:	1789
	Total amount to be protected (A + B + C)	**:**	**16575**
	DA rate of officers – 24.2%		
F	Basic Pay fixed in Officer-A Gr. by bifurcating 'E' as Basic Pay with 24.2% DA as on 01.02.1999	:	13345
G	DA @ 24.2%		3230
H	**Total Salary in Officer Grade (E+F)**	**:**	**16575**

The above statement would show that the total amount of Basic Pay, promotional increment and their DA (Rs.16575) has been protected in the promoted post as Basic Pay (Rs.13345) and DA (Rs.3230) (totaling to Rs.16575) and as such there is no monitory loss due to the promotion of the above employee as Officer-A grade.

21. In this connection, it is submitted that the table herein below would show the **total salary of a similar employee, who got promotion as Officer-A grade on 1.6.1996, before the salary revision of officers:**

A	Basic Pay as workman as on 01.06.1996	:	(Rs.) 4720
B	Personal Pay	:	54
C	Promotional increment – 6% of BP + PP	:	287
D	Total (A + B)- New Basic pay as officer as on 01.06.1996	:	5061
E	New Basic Pay as officer after salary revision of officers as on 01.01.1997	:	12000
G	Basic pay as on 01.01.1998	:	12480
H	Basic pay as on 01.01.1999	:	12980
I	Basic pay as on 01.02.1999	:	12980
J	DA @ 24.2% eligible for officers	:	3141
K	Total salary as on 01.02.1999 in Officer Grade (H+I)	:	16121

The above table would show that the total salary of the employee, who got promotion as Officer-A Grade on 1.6.1996 is only Rs.16121 as on 01.02.1999 whereas an employee who got promotion after revision is getting a total salary of Rs.16575. Similarly his basic pay is only Rs.12980/- whereas the Basic Pay of the employee who got promotion after revision is Rs.13345/-.

22. The following table would show the **total salary of an employee if his pay is fixed as demanded by the union:**

A	Basic Pay as workman	:	(Rs.) 13949
B	Promotional increment – 6% of BP	:	837
C	Total (A + B)	:	14786
D	DA (for C) @ 24.2% eligible for officers	:	3578
E	Total amount (C + D)	:	18364

This would show that if the basic pay of the workmen promoted as officer-A grade are fixed as demanded by the union, their salary would be much higher (Rs.18364 – Rs.16575 = Rs.1789/-) than the basic pay of employees who were promoted as officer-A before them and are senior to them in terms of merit and service. This is due to the extension of double benefit as explained in paragraph 17. This will lead to dissatisfaction among the senior officers and result into industrial unrest as well as further litigations. It is also submitted that, if the method adopted was not followed that would have resulted in junior officers drawing higher pay causing heartburns to seniors resulting in discrimination and frustration. The management has not violated any terms of the settlement or law in this regard.

23. The management is extending promotional increment in terms of long term settlement. The management has not denied the promotional increment provided in the settlement causing prejudice to the workmen as alleged in the claim statement.

24. Therefore the management has requested to uphold their contentions and to disallow the claim of the unions.

25. As per the Award dated 27th August, 2010 this Tribunal held that this Court has no jurisdiction to decide the dispute and hence no relief can be granted to the employees as claimed in the claim statement. Against that Award the unions filed OP(LC) No. 812/2010(O) & WP(C) No. 1857/2011 before the Hon'ble High Court of Kerala. As per the common judgment dated 10.04.2013, the Hon'ble High Court of Kerala set aside the Award passed by this Tribunal on 27.08.2010 and remanded the matter and directed this Tribunal to dispose the matter afresh in accordance with the observations in the judgment, after affording sufficient opportunity to either parties. Against that judgment the management preferred WA No.974/2013 before the Hon'ble High Court of Kerala, Ernakulam.

26. As per the common judgment dated 10.04.2013 in OP(LC) No.812/2010 and WP(C) No.1857/2011, the Hon'ble High Court of Kerala has held that the finding of the Industrial Tribunal that the industrial dispute cannot be raised in the instant case, is untenable and accordingly set aside. The Hon'ble High Court of Kerala further observed that:-

> ***"The management asserts that the benefit of Clauses 13 and 14 would apply to workmen only especially when Ext.P1 settlement pertains only to workmen. It is also the case of the management that Clause 14 applies in addition to Clause 13 in the case of grade promotion to the workmen only. This precise question has not been considered by the Industrial Tribunal in the perspective in which it is raised in the writ petitions. Therefore the matter needs a re-look by the Industrial Tribunal on the merits of the industrial dispute as well in the case on hand."***

27. Observing the above the Hon'ble High Court of Kerala set aside the award passed by this Tribunal in this case on 27.08.2010. Against the aforesaid common judgment, there were three Writ Appeals before the Hon'ble High Court of Kerala. They were WA No.974/2013; WA No.1534/2013 and WA No.1465/2014. As per the common judgment dated 25.11.2016 in the aforesaid three Writ Appeals the Hon'ble High Court of Kerala has held that *"an industrial dispute exists and that the Industrial Tribunal-cum-Labour Court had jurisdiction to decide the issue referred to it for adjudication"*. It is observed that their Lordships are in agreement with the learned single judge that the Industrial Tribunal-cum-Labour Court has not considered the issue referred to it, having regard to the rival contentions and materials on record. The Hon'ble High Court of Kerala has observed that *"The learned single judge was, therefore, in our opinion right in holding that the Industrial Tribunal-cum-Labour Court has jurisdiction to decide the dispute"*. The Hon'ble High Court of Kerala dismissed the Writ Appeals with the observation that *"dispose of the case expeditiously and in any event within six months from the date of receipt of a copy of this judgment"*.

28. After receipt of the copy of the common judgment in the Writ Appeals, notice was issued to the parties to appear and for continuation of the proceedings in accordance with the directions issued by the Hon'ble High Court of Kerala in the Writ Petitions and in the Writ Appeals. On receipt of notice the parties entered appearance through counsel and submitted that both sides have no additional oral evidence or additional documents to be produced in this case.

29. At the initial stage, on behalf of the union WW1 was examined and Exts.W1 to W10 were marked. On behalf of the management MW1 was examined and Exts.M1 to M4 were marked. After remand, the learned counsel appearing for the parties were heard.

30. The crucial issue as to whether the dispute referred for adjudication is an industrial dispute or not, has been answered by the Hon'ble High Court of Kerala in the Writ Petitions and Writ Appeals to the effect that, the dispute is an industrial dispute and that this Tribunal has to adjudicate the dispute on merits on the basis of the evidence on record and the documents produced by both sides and the submissions made by the learned counsel appearing for both sides.

31. The points arising for consideration are:

"(i) Whether the action of the management of Cochin Refineries Ltd. of BPCL in fixing the basic pay on promotion to managerial position of 1st Line Supervisors at the rate lesser than what they were drawing before their promotion, is fair and justifiable?

(ii) To what relief the workmen are entitled?"

32. Point Nos. (i) & (ii) :- There is no dispute regarding the factual position that the workmen in the Grade V, VI and VII, on promotion will be eligible for promotional increment of 2% of basic pay over and above their normal rate of annual increment, effective from 01.08.1998. The unions have stated that when the pay was fixed for those promoted from workmen to A grade officers after 01.08.1998, their basic pay was fixed much less than what they were drawing before promotion, contrary to the terms and conditions of the long term settlement dated 18.07.2002. Therefore a group of 66 such affected officers submitted a representation before the Managing Director, expressing their grievance. Accordingly meetings were held between the office bearers of the officers' association with the Executive Director (HR) and the DGM(Personnel) to resolve the anomaly in the pay fixation. The unions have stated that the management arbitrarily and unilaterally fixed the pay of the newly promoted officers much below their actual eligibility. It is stated that consequent on this decision there is reduction of ₹500/- to ₹1,500/- per month towards basic pay since 01.08.1998. Again the officers' association pursued the remedy by submitting a representation before the management. The management as per e-Mail dated 26.03.2004 admitted that there is a small reduction in the basic pay element in the salary of the officers compared to the basic component of the workmen and requested to appreciate that on promotion from workman to officer, an employee is entitled to additional benefits, which are superior and therefore the matter has to be viewed from a wider perspective. The unions have stated that the decision of the management is against the terms and conditions in the long term settlement dated 18.07.2002. The unions have requested to consider the demand in the correct perspective and to pass an award, directing the management to re-fix the pay of those persons promoted from workmen to 'A' grade officers after 01.08.1998, in accordance with the terms and conditions stipulated as per the conciliation settlement dated 18.07.2002 and to direct them to disburse the salary arrears to those concerned and also to pass such other incidental reliefs thereof.

33. The management in their written statement denied the claim of the union. Since the question as to whether the matter in issue is an industrial dispute or not, has been answered by the Hon'ble High Court of Kerala in the affirmative, that aspect need not be considered afresh. The only aspect to be considered is the sustainability of the claim of the union on the basis of the long term settlement, rules and regulations, procedure and practice prevailing in the industry. In the written statement the management desired to substantiate their position that on promotion from workman to officer grade A, the officer is getting higher status and additional benefits than that of the workmen and any small reduction in the basic pay will not affect their pay package. In short the management has totally denied the claim of the union on merits.

34. While examined as MW1, the Manager (Benefit Admn.) has stated that Ext.M4 is copy of the Conduct, Discipline & Appeal Rules for Management Staff. He has further stated that as regards the managerial employees, the revision of pay is effected by the administrative orders issued by the management following the Government of India directives. He has stated that the workmen who offered promotion have accepted the terms and conditions and therefore they have no right to challenge the decision of the management. During cross-examination MW1 has stated that the employees involved in this reference are entitled to the benefits as per Ext.W8 document. He has stated that as per Clauses 13 and 14 of Ext.W8, the workmen on promotion are entitled to get increase of 6% of basic pay. He has denied the suggestion that WW1 is entitled to get a basic pay of ₹16,666/-. He has stated that there are no rules or regulations for fixation of pay of officers. He has denied the suggestion that the decision of the management was arbitrary. He has stated that the pay of officers is fixed on the basis of the report received from the Ministry, issued by the Pay Commission in this regard. He has stated that there is no Government order authorizing the reduction of basic pay on promotion. Except on the basis of disciplinary action, there is no rule enabling the management to reduce the basic pay. He has stated that the retirement benefits are calculated on the basis of the basic pay drawn at the time of superannuation. He has stated that the BPCL has issued guidelines for fixation of pay of officers.

35. While examined as WW1, the worker affected as per the decision of the management has stated about his grievance and the grievance of those officers who were working in the similar position.

36. The documents produced on either side are not specific regarding the right of the management to reduce the basic pay on promotion. Therefore the guidelines, orders, circulars and directions issued by the Government in this regard prevails. The learned counsel for the workmen produced copy of FR No.22, issued by the Central Government in this regard. The said Rule reads as follows:

> **"F.R. 22. (I) The initial pay of a Government servant who is appointed to a post on a time-scale of pay is regulated as follows:-**
>
> **(a) (1) Where a Government servant holding a post, other than a tenure post, in a substantive or temporary or officiating capacity is promoted or appointed in a substantive, temporary or officiating capacity, as the case may be, subject to the fulfillment of the eligibility conditions as prescribed in the relevant Recruitment Rules, to another post carrying duties and responsibilities of greater importance than those attaching to the post held by him, his initial pay in the time-scale of the higher post shall be fixed at the stage next above the notional pay arrived at by increasing his pay in respect of the lower post held by him regularly by an increment at the stage at which such pay has accrued or rupees twenty-five only, whichever is more."**

37. In view of the purport and spirit of the guidelines issued by the Central Government as above and in view of the fact that there is no specific rule or guidelines enabling the management to reduce the basic pay on promotion, the unions in this case are well within their right in espousing the cause of the workmen promoted to 'A' grade involved in this reference. They are entitled to the relief as claimed in their claim statement.

38. Therefore the points for consideration are answered in favour of the unions and against the management.

39. In view of the finding on the points for consideration, the unions are entitled to get an award as requested by them.

40. In the result, an award is passed holding that the action of the management of M/s. KRL of M/s. BPCL, in fixing the basic pay on promotion to managerial position of first line supervisors at a rate lesser than what they were drawing before their promotion, is unfair and unjustifiable. The management is directed to re-fix the pay of the workmen involved in this reference and those who were affected by their decision, in accordance with the observations made above. The said exercise shall be completed within two months from the date of receipt of copy of the award in this reference.

The award will come into force one month after its publication in the Official Gazette.

Pronounced by me in the Open Court on this the 14th day of July, 2017.

SASIDHARAN K., Presiding Officer

APPENDIX

Witness for the unions

WW1	02.06.2010	Shri. Balakrishnan T.

Witness for the management

MW1	13.07.2010	Shri. Saranga Kumar R.

Exhibits for the unions/workmen

W1	-	True copy of the letter No.CROA/Pay fixation/022 dated 22.01.2003 addressed to the Executive Director(HR), Kochi Refineries Ltd. by the General Secretary, Cochin Refineries Officers' Association, Kochi Refineries Limited, Ambalamughal – 682 302.
W2	-	True copy of the letter No.CROA/Pay fixation/72 dated 24.06.2004 addressed to the General Manager(HRM), KRL by the General Secretary, Cochin Refineries Officers' Association, Kochi Refineries Limited, Ambalamughal – 682 302.
W3	-	True copy of the letter dated 26.03.2004 issued by the General Manager(HR) on pay fixation on promotion to officer cadre on or after 01.08.1998.

W4	-	Copy of the Pay Slip issued by the Kochi Refineries Limited to Shri. Balakrishnan. T, Workman Grade-VII, Operator-A, P & U Department, Ambalamughal for the month of August, 2003.
W5	-	True copy of the Pay Slip issued by the Kochi Refineries Limited to Shri. Balakrishnan. T, Officer Grade-A, Utilities Engineer, P & U Department, Ambalamughal for the month of October, 2003.
W6	-	Copy of the Pay Slip issued by the Kochi Refineries Limited to Shri. Balakrishnan. T, Officer Grade-A, Utilities Engineer, P & U Department, Ambalamughal for the month of November, 2003.
W7	-	Statement showing the notional fixation of pay in respect of Shri. T. Balakrishnan, Kochin Refineries Limited – pay arrived at by merging at 1708 points in the workmen scale to equalize the merging factor to that of Officer Grade w.e.f.01.01.1997.
W8	-	Long-term settlement entered into between the management and the workmen of Kochi Refineries Limited, Ambalamughal for the period from 01.08.1998 to 31.07.2008 converted into conciliation settlement on 28.08.2002 under Section 12(3) of the Industrial Disputes Act, 1947.
W9	-	Standing Orders (Effective May 6, 1973) of Cochin Refineries Limited, Ambalamughal.
W10	-	True copy of the Judgment dated 30.01.2006 in WP(C) No.15632/2005(J) of the Hon'ble High Court of Kerala, Ernakulam.

Exhibits for the management

M1	-	Copy of the letter No.1404.51E dated 01.10.2003 issued to Shri. Balakrishnan T., Badge No.1246 by the Deputy General Manager(P & U), Kochi Refineries Limited, Ambalamughal.
M2	-	Statement of Pay fixation in respect of Shri. T. Balakrishnan, Staff No.81246, workman promoted to Officer-A grade on 01.10.2003.
M3	-	Comparative statement of the calculation and payment of DA to Officers and workmen in Kochi Refinery, Ambalamughal.
M4	-	Conduct, Discipline & Appeal Rules for management staff of Bharat Petroleum Corporation Limited.

नई दिल्ली, 17 नवम्बर, 2017

का.आ. 2703.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स भारतीय जीवन बीमा निगम के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, मुम्बई के पंचाट (संदर्भ संख्या 33/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31.10.2017 को प्राप्त हुआ था।

[सं. एल-17011/3/2013-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th November, 2017

S.O. 2703.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 33/2013) of the Central Government Industrial Tribunal/Labour Court No. 2, Mumbai now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Life Insurance Corporation of India and their workman, which was received by the Central Government on 31.10.2017.

[No. L-17011/3/2013-IR (M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT : M. V. DESHPANDE, Presiding Officer

REFERENCE NO. CGIT-2/33 of 2013

EMPLOYERS IN RELATION TO THE MANAGEMENT OF
LIFE INSURANCE CORPORATION OF INDIA

The Sr. Division Manager,
Life Insurance Corporation of India,
Mumbai Division-I, Yogakshema,
Jeevan Bima Marg,
Mumbai – 400 021.

AND

THEIR WORKMEN

The General Secretary,

Bhartiya Bima Karmachari Union,

The New India Assurance Co. Ltd.,

The Nindia Centre, 8th Floor,

17 Cooperate Road, Mumbai – 400 039.

APPEARANCES :

FOR THE EMPLOYER : Mr. H.K. Bhalerao, Advocate

FOR THE WORKMEN : Mr. M. B. Anchan, Advocate

Mumbai, dated the 17th August, 2017

AWARD

1. This is reference made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide Government of India, Ministry of Labour & Employment, New Delhi vide its order No. L-17011/3/2013 – IR (M) dated 28.05.2013. The terms of reference given in the schedule are as follows :

> "Whether the action of Life Insurance Corporation of India, Mumbai in imposing the penalty of censure and stoppage of the stagnation increment from 01.07.2008 of Shri K.K. Relekar, Assistant, is legal and justified ? What relief the workman is entitled to ?"

2. After the receipt of the reference, both the parties were served with the notices. They appeared through their respective representatives.

3. The concerned workman filed statement of claim Ex.8. According to the concerned workman, he was appointed as Record Assistant [Helper] in December 1970. He was asked to work as officiating cashier in November 2006. Due to shortage in cash he has to return Rs.2000/- to the management on the same day. Since due to old age of 55 years and since he had to undergo ECO and Stress test, 2D Echo test etc. he could not concentrate to work as officiating cashier. He therefore requested the management to exempt him from cash work. However, in January 2007 management forced him to work as cashier. Due to shortage in cash be became breathlessness and was suffering from chest pain. His Cardiologist sent him to Nanavati Hospital for 2D Eco and Angiography. He was diagnosed as suffering from inchemic heart disease and advised to see chest physician. However, he was forced to work as officiating cashier. But due to health problems on those days also shortage of cash was found and he has to return Rs.20,000/- on 5 occasions, therefore on 3.3.2008 he was told not to sit in cash counter. Management told him to give in writing to the effect that due to his health ground he is enable to sit in cash counter. Management asked him to submit Cardiologist certificate vide letter dated 11.3.2008 but again he was asked to work as officiating cashier. Since he did not give consent to work as officiating cashier, a memo dated 14.3.2008 was served on him and he was asked to give his explanation. Since Cardiologist did not give his certificate, he informed to the management but then the management censured him and stopped one stagnation increment for 50 months. Due to that he was put to a great financial loss in PF account, gratuity, leave, increment etc.

4. According to concerned workman, for one minor misconduct he was given 2 punishments, one censure and other stoppage of one stagnation increment. Therefore he is asking for releasing of stagnation increment and to direct

the management of L.I.C. to work out arrears of stagnation allowance, encashment of leave etc. and to make the payment to the workman concerned.

5. The first party management has resisted the statement of claim by filing written statement Ex.9. It is the contention of the first party management that the stoppage of stagnation increment is not a punishment as provided under Life Insurance Corporation of India [Staff] Regulations, 1960 and therefore the reference deserves to be dismissed on this ground alone.

6. It is also the contention of the first party management that the punishment of censure which was imposed on the concerned workman was challenged by him before the Hon'ble High Court by filing W.P. No. 215 of 2010 and Hon'ble High Court by his order dated 16.2.2010 had rejected the petition of the workman. Thereafter the workman preferred special leave to appeal (Civil) No. (s) 16453 of 2010 before the Hon'ble Supreme Court and the same has been dismissed by the Hon'ble Supreme Court vide order dated 7.1.2014. In view of above the issue of censure has already been adjudicated by the Hon'ble High Court as well as Hon'ble Supreme Court and the same cannot be adjudicated by this tribunal.

7. It is also the contention of the first party management that first stagnation increment of the concerned workman was due on 1.7.2008. The same was postponed to 1.7.2009 as the workman did not get requisite marks in C.R. for review period. The stagnation increment which had fallen due on 1.7.2009 was also postponed to 1.7.2010 as the penalty of censure was imposed upon the workman on 31.10.2008. First stagnation increment of the concerned workman was released in August 2010 and second stagnation increment due on 1.7.2012 was also released in August 2012. So according to the first party management, stagnation increment of the concerned workman was released as per the rules applicable to the workman.

8. It is also the case of the first party management that the concerned workman was impaneled as officiating cashier by the first party management on 28.9.2006. Thereafter vide letter dated 3.3.2008, the concerned workman requested the first party management to exempt him from the work of officiating cashier on medical grounds. So the management vide its letter dated 11.3.2008 directed him to submit the clinical findings and other medical reports of his ailment but the concerned workman failed to submit the necessary medical report.

9. It is also the case of the first party management that due to shortage of staff in the office, the first party management vide its letter dated 12.3.2008 asked the concerned workman to work as officiating cashier to which he refused. The first party management vide its letter dated 7.5.2008 requested the concerned workman to submit the necessary reports and cardiologist certificate but the concerned workman failed to produced the same. Even after reminder letters dated 21.8.2008 and 12.9.2008 the concerned workman failed to submit necessary medical report to justify his action of refusing the work. so by refusing the work on 12.3.2008, the workman has violated Regulation 21 of Life Insurance Corporation of India [Staff] Regulations, 1960 and therefore the first party management by its order dated 31.10.2008 imposed the penalty of censure as provided under Regulation 39 on the workman. On these premise the first party management has sought rejection of reference with costs.

10. Following issues are framed at Ex.10. I reproduce the issues along with my findings thereon for the reasons to follow:

Sr. No.	Issues	Findings
1	Whether the action of management of LIC of India in imposing the penalty of censure and stoppage of the stagnation increment from 1.7.2008 of Shri K.K. Relekar is legal and justified ?	Yes
2.	If not, what relief the workman is entitled to ?	No
3.	What order ?	As per final order

REASONS

Issue No. 1

11. So far contentions go, it is the case of the concerned workman that the action of the management of LIC of India, Mumbai in imposing the penalty of censure is illegal. In this respect the concerned workman in his evidence has stated that on 12.3.2008 he had signed the muster roll and went to urinal for urinating. According to him while urinating all the urine fell on his paint and since it was smelling he put water on it and sat on chair and started working.

He then states that Branch Manager asked him to sit on cash counter and he told to the branch manager that after drying the paint he will sit on cash counter but the branch manager forced him to sit on the cash counter inspite of his requests. He then states that the branch manager forced him to write refusal letter to work on cash counter and also refused to allow him to take casual, sick leave or extra ordinary leave etc. To be precise his evidence is that he was forced to write refusal to work on cash counter and then the management proceeded with disciplinary action without any enquiry and censured him and stopped stagnation increment for 50 months.

12. This sort of evidence of the concerned workman is inconsistent with his pleadings in the statement of claim. In the statement of claim he stated that he was suffering from chest pain and cardiologist advised him to see chest physician. In his pleadings he has also stated that due to health problem the shortage of cash was found and he had to return cash of Rs.20,000/- on 5 occasions therefore he requested the management to exempt him from cash work. the management asked him to produce medical certificate but he could not produce the medical certificate and therefore management censured him. In his pleadings he has nowhere stated that since his paint was wet, he requested the management to allow him to take Casual Leave but the management forced him to sit on the cash counter with his wet paint. Considering the inconsistency in his evidence it will have to be said that his evidence in this respect is not acceptable.

13. On the contrary it has come on record that since he refused to work on cash counter he was censured by the management as he failed to produce medical certificate inspite of reminders given to him. In respect of the censure though it is punishment under Regulation 39 (1) (a) to (g) of Life Insurance Corporation of India [Staff] Regulations, 1960, it is clear that the enquiry or issuance of show cause is not required for imposing such miner penalty. Even otherwise against order of management of imposing censure the concerned workman has filed W.P. No. 251 of 2010 before Hon'ble High Court and challenged the said order but then his petition was rejected on 16.2.2010. Thereafter he preferred special leave to appeal No. 1653 of 2010 before Hon'ble Supreme Court and the same was also dismissed by the Hon'ble Supreme Court by observing that by afflux of time the petitioner has already retired and the order of censuring has not adversely affected his career or retirement benefits. As such the issuance of censure has already been adjudicated and same cannot be adjudicated again by this tribunal.

14. In respect of stagnation of increment, it is matter of record that first stagnation increment was due to the workman on 1.7.2008. We have document at Sr. No. 18 below Ex.12 to show that remarks by P & IR Department were obtained in respect of concerned workman in the proforma for consideration of release of stagnation increment and as per remarks the concerned workman did not get requisite marks in C.Rs of last 2 – 3 years as also special C.R.s and therefore his stagnation of increment which was due on 1.7.2008 was postponed to 1.7.2009. Not only that but on 24.1.2009 the concerned workman was informed by letter that the competent authority has not found it possible to consider for sanctioning of his stagnation increment due w.e.f. 1.7.2008 till further instructions. Thereafter the stagnation increment of the concerned workman had fallen due on 1.7.2009 and as per the remarks by P & IR Department report since he was censured on 31.10.2008, he was not considered eligible for sanctioning stagnation increment w.e.f. 9.7.2009 till further instructions. Accordingly, he was informed by letter dated 21.11.2009 that competent authority was not found it possible to consider for sanctioning of his stagnation increment due w.e.f. 1.7.2009 till further instructions. Because of these reasons and the remarks of P & IR Department, his first stagnation increment which had fallen due on 1.7.2008 was postponed and then the stagnation increment which had fallen due on 1.7.2009 was also postponed to 1.7.2010 as the penalty of censure was imposed upon him. As a matter of fact his first stagnation increment was released in August 2010 and the second stagnation increment was also released in August 2012. It can be said therefore that the first party management has released stagnation increments of the concerned workman as per the rules applicable to him.

15. Even otherwise postponement of stagnation increment on the ground that remarks of P & IR Department were negative for granting stagnation increment cannot be the punishment as provided under Life Insurance Corporation of India [Staff] Regulations, 1960. It cannot be said therefore that the concerned workman was imposed two punishments i.e. censure and postponement of stoppage of increment for one misconduct. Even stagnation of increment has not affected his PF, gratuity, encashment or leave salary etc. The Hon'ble Supreme Court has already observed that order of censuring has not adversely affected his career or retirement benefits, there is no question of holding the enquiry for stoppage of stagnation increment since it cannot be termed as punishment and such stagnation of increment is based on the report of P & IR Department.

16. Even then the Learned Counsel for the concerned workman has submitted that withholding of one or two increments either permanently or for the specified period would amount to punishment and no order imposing of any penalties specified in clauses (b) to (g) of sub section (1) of Life Insurance Corporation of India [Staff] Regulations, 1960 shall be passed without the charges being communicated in writing and without having been giving the reasonable opportunity of defending himself against such charges. Submission is that since no enquiry was held, order of the disciplinary authority is illegal.

17. This submission is not acceptable. The concerned workman in his cross examination has admitted that as per the staff regulations rules one or more penalty can be imposed. He even admits that action of management was as per staff regulations rules. He even admits that refusal to work at the cash counter was misconduct as per the staff regulations rules. For that misconduct he was censured and action of censuring him by the management has been confirmed since the Hon'ble High Court and Hon'ble Supreme Court has rejected his petitions by which he has challenged the said action of censuring him.

18. So far the postponement of stagnation increment is concerned, the same was postponed as he did not get the requisite marks in CRs for review period. That cannot be a punishment and then it is a matter of record that first and second stagnation increments are released in August 2010 and August 2012. The stagnation increments of the concerned workman was released as per the rules applicable to him. In view of that it can be said that the action of management in imposing penalty of censure is legal and proper. So far stoppage of increment is concerned, it is not a punishment and that stoppage of increment is nothing but the postponement of increment which was on the ground that he did not get requisite marks in C.R. for the review period. That action of management is also legal and proper. Hence Issue No.1 is answered accordingly in the affirmative.

Issue No. 2 & 3

19. In view of my findings to Issue No.1, the workman is not entitled to any relief. Hence I pass the following order.

ORDER

Reference is rejected with no order as to costs.

Date: 17.08.2017

M. V. DESHPANDE, Presiding Officer

नई दिल्ली, 17 नवम्बर, 2017

का.आ. 2704.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स मैसूर मिनरल्स लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बेंगलूर के पंचाट (संदर्भ संख्या 76/2007, 107/2007, 111/2007, 115/2007, 162/2007, एवं 38/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31.10.2017 को प्राप्त हुआ था।

[सं. एल-29012/13/2007-आईआर (एम),
सं. एल-29012/46/2006-आईआर (एम),
सं. एल-29012/18/2007-आईआर (एम),
सं. एल-29012/34/2007-आईआर (एम),
सं. एल-29012/53/2007-आईआर (एम),
सं. एल-29012/40/2008-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th November, 2017

S.O. 2704.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 76/2007, 107/2007, 111/2007, 115/2007, 162/2007 & 38/2008) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Mysore Minerals Limited and their workman, which was received by the Central Government on 31.10.2017.

[No. L-29012/13/2007-IR (M),
No. L-29012/46/2006-IR (M),
No. L-29012/18/2007-IR (M),
No. L-29012/34/2007-IR (M),
No. L-29012/53/2007-IR (M),
No. L-29012/40/2008-IR (M),]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIUBNAL-CUM-LABOUR COURT, BANGALORE

DATED : 03rd OCTOBER, 2017

PRESENT : Shri V. S. RAVI, Presiding Officer

COMMON AWARD

(i) CR No. 76/2007

I Party	**II Party**
Sh. Sannappa, S/o Late Thammaiah Chari, Hullikere Village, Athihalli Post, Nuggehalli Hobli, Channarayapatna Taluk, Hassan District.	The Managing Director, Mysore Minerals Limited, No. 39, M G Road, Bangalore.- 560001

The Central Government vide Order No.L-29012/13/2007-IR(M) dated 16.05.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

"Whether the management of Mysore Minerals Limited is justified in terminating the services/premature superannuating of the services of Sri. Sannappa w.e.f. 19.02.1998? If not, to what relief the workman is entitled to?"

(ii) CR No. 107/2007

I Party	**II Party**
Smt. S. Thimmamma, W/o Late Amase Gowda, Kembalu Village and Post, Bagur Hobli, Channarayapatna Taluk, Hassan District.	The Managing Director, Mysore Minerals Limited, No. 39, M G Road, Bangalore.- 560001

The Central Government vide Order No. L-29012/46/2006-IR(M) dated 23.08.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

"Whether the action of the management of Mysore Minerals Limited in terminating the services/ superannuating the services of Smt. S. Thimmamma w.e.f. 28.06.1998 is just and legal? If not, to what relief the workman is entitled to?"

(iii) CR No. 111/2007

I Party	**II Party**
Smt. B. Nanjamma, W/o Late Boregowda, Hullikere Village, Hattihalli Post, Nuggehalli Hobli, Channarayapatna Taluk, Hassan District.	The Managing Director, Mysore Minerals Limited, No. 39, M G Road, Bangalore.- 560001

The Central Government vide Order No. L- 29012/18/2007-IR(M) dated 22.08.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

"Whether the management of Mysore Minerals Limited is justified in terminating the services/premature superannuating of the services of Smt. B. Nanjamma w.e.f. 16.04.1998? If not, to what relief the workman is entitled to?"

(iv) CR No. 115/2007

I Party	**II Party**
Smt. Narasamma, W/o Late Mudalagiri Gowda, Chavenahalli Village, Nagrnavile Post, Bagur Hobli, Chanarayapatna Taluk, Hassan District.	The Managing Director, Mysore Minerals Limited, No. 39, M G Road, Bangalore.- 560001

The Central Government vide Order No.L-29012/34/2007-IR(M) dated 22.08.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

"Whether the management of Mysore Minerals Limited is justified in terminating the services/premature superannuating of the services of Smt. Narasamma w.e.f. 18.02.1998? If not, to what relief the workman is entitled to?"

(v) CR No. 162/2007

I Party	**II Party**
Sh. A. Siddaiah, S/o Late Arasaiah, Nandhihalli Village, Bageshpur Post, Gandasi Hobli, Arasikere Taluk, Hassan District.	The Managing Director, Mysore Minerals Limited, No. 39, M G Road, Bangalore.- 560001

The Central Government vide Order No.L-29012/53/2007-IR(M) dated 17.12.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

"Whether the termination of Sh. A. Siddaiah by the management of Mysore Minerals Limited w.e.f. 02.05.1998 is justified? If not, to what relief the workman is entitled to?"

(vi) CR No. 38/2008

I Party	**II Party**
Smt. Siddamma, W/o Katte Gowda, Ubbalagani Village, Rajapur Post, Sandur Taluk, Bellary Dist. Karnataka	The Managing Director, Mysore Minerals Limited, No. 39, M G Road, Bangalore.- 560001

The Central Government vide Order No.L-29012/40/2008-IR(M) dated 15.12.2008 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule and also corrigendum :

SCHEDULE

"Whether the action of M/s Mysore Minerals Ltd. Bangalore in removing the service of Smt. Siddamma W/o Late Katte Gowda w.e.f 03.09.1998 is justified? If not, to what relief the workman is entitled to?"

Appearance :

I party : M/s. K.T. Govinde Gowda &
Sh. C.G. Dileep Gowda, Advocates

II party : Mr. T.K. Vedamurthy Advocate

1. Brief details mentioned in the claim statement by I Party are as follows:-

(i) In CR No. 76/2007, the I Party submits that on 01.07.1981, he has joined the service of the II Party management at its Mining Unit viz., Jamboor Chromite Mines, Channarayapatna Taluk, Hassan District, as a Mining Worker under

token No. 141. At the time of joining the I Party has furnished his age as 30 years i.e., his date of birth being 01.07.1951. Further, the II Party, Jamboor Chromite Mines Officials, orally refused to allow the I Party to do his work w.e.f 19.02.1998. The I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), and the Central Government have referred the Reference in CR No.76/2007.

(ii) In CR No. 107/2007, the I Party submits that on 02.05.1975, she has joined the service of the II Party management at its Mining Unit viz., Byrapura Chromite Mines, Channarayapatna Taluk, Hassan District, as a Mining Worker under token No. 221. At the time of joining the I Party has furnished her age as 31 years i.e., her date of birth being 02.05.1950. Further, the II Party, Byrapura Chromite Mines Officials, orally refused to allow the I Party to do her work w.e.f 28.06.1998. The I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), and the Central Government have referred the Reference in CR No.107/2007.

(iii) In CR No. 111/2007, the I Party submits that on 01.09.1980, she has joined the service of the II Party management at its Mining Unit viz., Jamboor Chromite Mines, Channarayapatna Taluk, Hassan District, as a Mining Worker. At the time of joining the I Party has furnished her age as 35 years i.e., her date of birth being 01.09.1945. Further, the II Party, Jamboor Chromite Mines Officials, orally refused to allow the I Party to do her work w.e.f 16.04.1998. The I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), Hubli and the Central Government have referred the Reference in CR No. 111/2007.

(iv) In CR No. 115/2007, the I Party submits that on 08.02.1979, she has joined the service of the II Party management at its Mining Unit viz., Byrapura Chromite Mines, Channarayapatna Taluk, Hassan District, as a Mining Worker under token No. 292. At the time of joining the I Party has furnished her age as 35 years i.e., her date of birth being 08.02.1944. Further, the II Party, Byrapura Mines Officials, orally refused to allow the I Party to do her work w.e.f 18.02.1998. The I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), Hubli and the Central Government have referred the Reference in CR No. 115/2007.

(v) In CR No. 162/2007, the I Party submits that on 01.06.1981, he has joined the service of the II Party management at its Mining Unit viz., Bageshpura J.D. Gani Mines and later on transferred to Doomgere Mines, Arasikere Taluk, Hassan District, as a Mining worker. At the time of joining the I Party has furnished his age as 20 years i.e., his date of birth being 01.06.1961. Further, the II Party, Doomgere Mines Officials, orally refused to allow the I Party to do his work w.e.f. 02.05.1998. The I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), Hubli and the Central Government have referred the Reference in CR No. 162/2007.

(vi) In CR No. 38/2008, the I Party submits that on 3.09.1982, she has joined the service of the II Party management at its Mining Unit viz., Hublagandi Iron Ore Mines and later on transferred to Thimmappanagudi Iron Ore Mines, Sandur Taluk, Bellary District, as a Mining worker. At the time of joining the I Party has furnished her age as 26 years i.e., her date of birth being 01.11.1952. Further, the II Party, Thimmappanagudi Iron Ore Mines Officials, orally refused to allow the I Party to do her work w.e.f. 03.09.1998. The I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), Hubli and the Central Government have referred the Reference in CR No. 38/2008.

2. Brief Common details mentioned on behalf of I Party are as follows:-

The date of birth of the I Party, in fact, has been entered in all the statutory records like EPF, B-register and Service records, etc. The I Party is entitled to continue in the service with the II Party up to the reaching of the age of superannuation i.e., 58 years in the II Party Organization. The II Party by way of an eye wash conducted the so called illegal Medical Examination for the purpose of removing the I Party from the service before reaching the age of superannuation. Further, the II Party has terminated the I Party on the plea that the I Party has reached the superannuation age of 58 years as per the so called illegal Medical Examination. After illegal termination, the I Party has faced unemployment problem and financial hardship, not only by I Party but also the family members of I Party. The entire family has depended only upon the earnings of the I Party in the II Party Organization. The II Party/Management similarly, has, prematurely, retired the co-workers of the I Party on the ground of Medical unfitness and also as per the age certificate, issued by the Medical Officer. The said co-workers have challenged their pre-matured retirement and the age certification, before the Hon'ble High Court of Karnataka, viz.,

(i) Writ Petition No. 5615/2001 between Smt. K.Dundamma Vs MML, and the same Management of II Party challenged the same in Writ Appeal No. 3460/2001 C/W W.No. 3459/2001. The said Appeal has been rejected on 12.06.2002 confirming the single Judge order dated 29.03.2001. In view of the said decision the Management, reinstated the above mentioned pre-matured retired employee with payment of back wages, and with continuity of service thereon.

(ii) Writ Petition No. 26101/2001, C/W W.P. Nos.23798/2001, 23797/2001 & 23794/2001 filed by Sri V.C. Range Gowda and 8 others Vs MML, and the same have been allowed on 01.06.2006.

On account of the illegal payment and other lapses, in the Management of II Party, it has to face administrative problems. The II Party adopted its own tactics, ways and means for terminating the Mining Workers in short cut methods and also, in an illegal and irregular manner by adopting anti-labour and un-fair labour practice and victimized the I Party and other co-workers by removing them enmasse by resorting to the so-called Medical Examination during the year 1998 in illegal and irregular manner, without disclosing the true fact, to the I Party and also without notifying the so-called Medical Examination, i.e., not by a Doctor of a Rank of Assistant Civil Surgeon as defined in Rule 29-C of the Mines Rules 1995. Hence, the so-called Medical Examination conducted by the II Party is illegal and irregular, and the same is not having any legal sanctity and not sustainable in law, as it is violative of Rule 29-C. The I Party has repeatedly requested the officials of the II Party to provide the work to I Party till reaching the age of superannuation i.e., 58 years. But all the efforts made by I Party to persuade the II Party to take the I Party, on duty, proved in vain because of hostile and vindictive attitude on the part of the II Party. The II Party has no right to refuse the employment to the I Party or to remove the name of the I Party from the muster rolls in the unilateral manner, without following the due process of Law. The II Party used the above illegal, imaginary, hypothetical and unscientific Medical report, as its tool for unilaterally deciding the age of I Party and other workers. The II Party unilaterally refused employment to the I Party before the age of superannuation even though the I Party is hale and healthy and entitled to work, up to the reaching of the age of superannuation i.e., 58 years. The II Party has not followed the Mandatory provision of Section 25 F, G, H & N of the Industrial Dispute Act, 1947 and Rules 78 and 79 thereon, and the action of the Management is, therefore, void-ab-initio as laid by the Hon'ble Supreme Court of India in the case Sundaramani Vs State Bank of India, Santhosh Gupta Vs State Bank of Patiala, Rober D'Souza Vs Southern Railway, K.S.R.T.C. Bangalore Vs Boraiaha and others and also the same is violative of the Provisions of Industrial Dispute Act, 1947. The II Party has un-necessarily created hardship to the I Party by not providing employment. The II Party Management is not justified in retrenching the services of the I Party in the summary manner without following the principals of Natural justice and fair play. Further, apart from the violation of various provisions of the I.D. Act as stated above, the II Party violated its own Certified Standing Orders. The II Party acted contrary to its own Certified Standing Orders/Service Rules for effecting the prematured, superannuation by way of illegal termination. The I Party submits that, the II Party failed to issue 3 months prior notice or tendered payment of 3 months salary to the I Party before termination of service of the I Party under Rule 24. The I Party belongs to socially and economically weaker section and also, the I Party is the Rural based worker and used to work in Mines, which is in a remote place of the village and the I Party is also an illiterate worker belonging to Economically weaker section & not a matching party to fight against the II Party for the injustice done by the II Party. The I Party is facing financial hardship and mental agony due to stoppage of his/her monthly earnings in the II Party organization and also, due to illegal termination. Also, the I Party is not able to maintain himself and the family with day to day, food and basic needs. The I Party has faced the financial hardship to reach the Labour Department like Assistant Labour Commissioner and Conciliation Officer (C), Hubli from I Party's place, for raising the dispute and also, to set right the I Party's grievances. The Officials of the II Party/Management have taken undue advantage of I Party's poverty, illiteracy, economic weakness and social weakness. Ultimately with great hardship, mental agony and with the help of well wishers, the I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), Hubli. The I Party is entitled for back wages, continuity of service and other consequential benefits from the date of refusal of employment. The II Party has violated the Provisions of I.D. Act as well as its own Certified Standing Orders/Service Rules as stated above. Under the I.D. Act there is no limitation prescribed for raising the dispute and the Article 137 of Schedule to the limitation Act is not applicable to proceedings under I.D. Act. This point is repeatedly decided by the Hon'ble Supreme Court of India and Hon'ble High Courts of various states namely,

(i). LLJ-II-2001-pg788-792 [SC], Sapan kumar Pandit Vs U.P. State Electricity Board and others.

(ii) LLJ-I-1999-pg 1260-1265 [SC], Ajaib Singh Vs Sirhind Co-operative Marketing-cum-processing Service Society.

(iii) LLJ-II-1999-pg-482-483[SC], Mahavir Singh Vs U.P. State Electricity Board and others.

(iv) LLJ-I-2003-pg 412-414 [MP], Ramadhar Tiwari Vs Union of India and others.

(v) LLJ-I-1994-pg 468-471 [All], U.P. State Spinning Mills Co. Vs State of U.P & Others

(vi) LLJ-II-2003-pg 1143-1145[Ori], Management of Aska Co-operative Central Bank Ltd. Vs State of Orissa

(vii) LLJ-I-2002-pg-204-206 [Mad], E.E. Construction Division 2, Mannarpuram, Trichy and Another Vs M.Gajapathy and Another

(viii) LLJ-I-2002-pg-1079-1081[Del], Mangal Singh Vs Presiding Officer, Industrial Tribunal No.1, Delhi and Another

(ix) LLJ-I-2002-pg-1129-1132[Bom], Haribhau S/o. Gaman Waghchaure Vs State of Maharastra and Another.

Therefore, the I Party prays this Court to pass an award by holding that the action of the II Party Management is not justified in terminating the services of I Party, namely, prematured superannuation of the services of the I Party and also to direct the II Party to reinstate the I Party, with continuity of service, with payment of Full back wages and other consequential benefits from the date of termination till providing employment/reaching the age of superannuation as per the date of birth details registered in the Statutory records like B-register and EPF records and Service records maintained by the II Party and EPF Authorities and to pay the interest at the rate of 18% from the said due date and also up to the date of payment and further award of cost of the present proceedings, in the interest of justice and also, equity.

3. Brief Common submissions made on behalf of II Party in the counter statement are as follows:-

The II Party states that, the dispute raised by the I Party is time barred and belated, and filed after the lapse of time. Further, the I Party has waited for the result in the case filed by the co-workers, who approached Hon'ble High Court of Karnataka. The success of co-worker of I Party in W.P. No. 5615/2001 and 26101/2001 before Hon'ble High Court of Karnataka inspired the I Party to file this dispute after the lapse of time. Hence, the conduct of the I Party does not deserve any relief at the hands of this Tribunal. Further, the II Party states that, the dispute raised by the I Party is liable to be dismissed on the ground of delay and latches, since the claim made by the I Party is stale and time barred. The II Party has conducted the Medical Examination and the said expert team have examined the I Party and found that, the I Party is not capable to work in a mine, in view of the fact that, the I Party has already reached the age of more than 58 years as on the date of Medical Examination. Further, as per the decision of Management, I Party has been terminated and also given opportunity to prefer an appeal before Appellate Medical Board within 30 days, if the I Party is aggrieved by the said Medical Report. The I Party, who has amicably received the terminal benefits from the II Party, has no right to raise present dispute, after the lapse of time, at the instigation, for the wrongful gain. It is relevant to submit that, the dispute referred by Government of India is itself not maintainable in law. Further, there is no Industrial Dispute existed or is apprehended. The Medical Examination has been conducted in Scientific Manner on thorough investigation. The I Party is not entitled for any benefits as per law. The I Party is happily working elsewhere since from the date of termination. Further, the statement of the I Party that, the II Party officials failed to consider the reasonable request of the I Party is totally incorrect and false. In fact, the I Party is employed elsewhere and earning salary. The I Party has filed this dispute only for wrongful gain, at the instigation of well-wishers, as admitted by the I Party in the claim statement. The II Party has not acted illegally or arbitrarily. Therefore, the II Party prays to dismiss the dispute filed by the I Party with exemplary costs, in the interest of justice and equity.

4. Already this Court has passed common award dated 27.08.2014. Thereafter, in Writ Petition the Hon'ble Karnataka High Court, has passed the following Order:- "The matter is remanded to the Central Government Industrial Tribunal Cum- Labour Court for fresh adjudication of the dispute. The Tribunal shall decide the dispute after giving notice to all the parties and pass an award in accordance with law. All the contentions of both the parties are left open." Further, notices have been sent for both sides and additional evidence recorded and arguments heard and after the careful perusal and appreciation of material records in the proper perspective the present Common Award is passed.

5. The crucial points/issues that arise for consideration in the present matter are as follows:-

(i) Whether the present claim has to be rejected on the ground of delay and latches as submitted by the II Party?

(ii) Whether the I Party has to prefer an appeal as against the medical certificate issued by the medical officer as submitted by the II Party in the counter statement?

(iii) Whether after the receipt of the terminal benefits, the I Party cannot raise any dispute in the present case?

(iv) Whether the I Party is entitled to get the relief as claimed in the claim statement, after the careful appreciation of the evidences adduced and documents produced by both the parties, in proper perspective?

6. Analysis, Discussion and Findings with regard to the above mentioned point/issue No. 1:-

The I Party has clearly stated in the claim statement itself, and also in the deposition that, I Party belongs to socially and economically weaker section, and the I Party is the rural based worker, and used to work in mines which is in a remote place of a village and I Party is also an illiterate worker, belonging to economically weaker section, and not a fit person, to fight against the II Party and the I Party has repeatedly requested the officials of II Party mines for permitting the I Party to work and also, due to I Party's acute poverty, I Party has faced huge financial hardship to reach the Labour Department like Assistant Labour Commissioner and Conciliation Officer (C), Hubli from I Party's

place, for raising the dispute and also, to set right I Party's grievances and in such circumstances, only the delay has happened for raising the dispute and the delay caused is not intentional and deliberate one, but only due to the above mentioned various reasons. The II Party has not specifically denied the above mentioned statements made by the I Party in the claim statement. Further, the I Party has also stated that, the officials of the II Party/Management have taken undue advantage of I Party's poverty, illiteracy, economic and social weakness by way of refusing employment, and also, after knowing fully, that the I Party is most incapable in approaching the Labour Authority for redressal of the I Party's grievances. The said details are also not specifically disputed by the II Party. Further, I Party has clearly stated in the claim statement that ultimately with great hardship, mental agony and with the help of well wishers, the I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), Hubli and the present central reference has been made to this Court by the Government of India, as per the above mentioned details. The said submissions made on behalf of I Party are also not specifically disputed on behalf of the II Party. On the other hand, the Assistant Manager of II Party, namely MW-1, has categorically admitted in his evidence that, I Party is an illiterate person. Further, the I Party has filed copies of Order passed in W.P. No. 5615/2001 dated 29.03.2001, W.A. No. 3460/01 c/w W.A. No. 3459/01 dated 12.06.2002 and W.P. No. 26101/01 c/w W.P. Nos. 23798/01, 23797/01 & 23794/01 dated 01.06.2006, as exhibits marked herein below and also MW-1 has admitted in his evidence that the success of the said co-workers in the said Writ Petition and Writ Appeal has inspired the I Party to file the present reference. In the above mentioned facts and circumstances, it is seen that, the I Party is justified in claiming the legal and statutory rights and benefits, due to the unlawful and illegal ways and means followed by the II Party to terminate the service of I Party, without following the principles of natural justice.

7. Further, the I Party has pointed out, in the claim statement, itself that, there is no limitation prescribed for raising the dispute and Article 137 Schedule of the Industrial Dispute Act is not applicable to the present case. Further, the Hon'ble Supreme Court of India, dated 03.12.2010, Mr. Hon'ble Justice. P. Sathasivam and Mr. Hon'ble Justice B.S. Chauhan, in Civil Appeal No. 10231/2010, between Kuldeep Singh Vs G.M, Instrument Design Development and Facilities Centre and Another, it is clearly held as follows:- "The Labour Court dismissed the claim of the appellant on ground of delay (of five and half years) in raising the dispute. The High Court confirmed the Labour Court's award. Hence this present appeal. The impugned award was set aside with costs of Rs. 50,000 to be paid by respondent-management to appellant." The Hon'ble Supreme Court observed that, there is no time limit prescribed for reference under section 10 of the Industrial Dispute Act, 1947. In the present case also, on a careful perusal of above said peculiar facts and vital circumstances and also due to the fact that, the I Party is facing poverty, illiteracy, economic and social weakness and also in the light of the above mentioned various citations, mentioned in the claim statement, it is seen that, the II Party is not justified in raising the objection to the effect that present reference is not maintainable, due to the delay and latches. The I Party in the claim statement as well as in the evidence has pointed out that, the I Party is an illiterate and the I Party has repeatedly requested the II Party officials to provide employment in the II Party Organisation. Further, the MW-1, namely the Assistant Manager of the II Party has also admitted that I Party is an illiterate person and it is true to suggest that in the mines there is no shelter from sun and rain and it is true to suggest that there is no health unit and it is true to suggest that, the working conditions as per the mining act have not been provided at the mines. In such circumstances, it is crystal clear that, II Party has not provided the basic and statutory and also necessary facilities, for the proper working conditions and also, for the welfare of the I Party workers.

8. Further, Industrial Dispute Act is a social legislation brought into existence after various Industrial Revolutions, stage by stage and the said act has been enacted to provide minimum and basic facilities for workman and protect his/her employment. Further, II Party cannot take the super technical submission of delay and latches as a protective shield to cover up their lapses and violation of laws. Further, it is the well settled law that, I Party can initiate proceedings for the alleged illegal termination of services of workman en-mass by the II Party. Further, for the effective implementation of the Labour enactment and protecting the interest of workman only the Government have created a Labour Department. Further, it is very pertinent to point out that, the present reference is made by the Government of India, Ministry of Labour with the above mentioned schedule. Hence, this Court is bound to pass appropriate award in accordance with law based upon the facts and circumstances of the present matter. The II Party/Management cannot take super technical and hyper technical measures, so as to avoid payment of the legitimate amounts, payable to the I Party/Workman. Further, it is clearly held in the judgment reported in 1995-II-LLJ 835, between H.S. Vasantsenaiah Vs The Divisional Controller, K.S.R.T.C & Anothers, as follows:- "Delay in approaching the Labour Court- No ground to deny back wages and other consequential benefits."

9. Further, it is held in the judgment reported in 1999-LLJ-II-pg 482-483 [SC], between Mahavir Singh Vs U.P. State Electricity Board and others, as follows:- "Delay in raising dispute – Labour Court finding termination of workman's service illegal-reference could not be rejected." Also in the judgment reported in 2003-LLJ-I-pg 412-414 [MP], between Ramadhar Tiwari Vs Union of India and others, it is clearly held as follows:- "No limitation laid down for raising dispute under statute - dispute raised after about 5 years - not one which could be refused on ground of delay." Again, in the judgment reported in 1994-LLJ-I-pg 468-471 [All], between U.P. State Spinning Mills Co. Vs State of U.P and others, it is specifically held as follows:- "Lapse of 11 years between raising a dispute and making

reference does not lose the character of industrial dispute." Further, in the judgment reported in 2002-LLJ-I-pg 1079-1081 [Del], between Mangal Singh Vs Presiding Officer, Industrial Tribunal No.1, Delhi and another, it is clearly held as follows:- "Relief under Industrial Dispute Act, 1947 not to be denied to workman merely on ground of delay." Also, in the judgment reported in 2002-LLJ-I-pg 1129-1132 [Bom], between Haribhau S/o. Gaman Waghchaure Vs State of Maharashtra and another, it is clearly held as follows:- "Limitation Act does not apply to proceedings under Industrial Dispute Act, 1947- If plea of delay be raised, employer to show real prejudice caused by delay and not rely on it as mere hypothetical defense." In the present case also, considering the above mentioned socio-economic conditions, poverty and illiteracy, of the I Party, it is found that, the appropriate relief, in accordance with law has to be granted to the workman and the same cannot be denied, as per the mere hypothetical defence taken by the II Party regarding the delay and in fact, the II Party has not established the real prejudice caused by the said delay.

10. Further, in the judgment in the case of Basti Sugar Mills Co. Ltd. Vs State of U.P., (1979) 2 SCC 88, by V. Kishna Iyer. J, it is pointed out as follows:- "Industrial Jurisprudence does not brook nice nuances and torturesome technicalities to stand in the way of just solutions reached in a rough and ready manner. Grim and grimy life-situations have no time for the finer manners of elegant jurisprudence." Thus, the process of industrial adjudication is an onerous task being guided by the constitutional mandates and aiming at settlement of the industrial dispute on a fair and just basis, tested on the touchstone of social and economic justice. When an industrial dispute is raised, it is a commotion to be pacified by dispensing justice. In such adjudication, not just the right to equality and other Constitutional guarantees, but the aims and ideals of the Constitution enter into the consideration. It is the duty of the Courts to apply directive principles in interpreting the Constitution and the laws. Also, it is reported in Lloyds Bank Ltd Vs. Bundy, (1974) 3 All ER 757 that Lord Denning first clearly enunciated his theory of "inequality of bargaining power". His Lordship began his discussion on this part of the case by stating (at page 763): "There are cases in our books in which the courts will set aside a contract, or a transfer of property, when the parties have not met on equal terms, when the one is so strong in bargaining power and the other so weak that, as a matter of common fairness, it is not right that the strong should be allowed to push the weak to the wall." In the present case also, it is seen that, the II Party has clearly admitted in the counter statement that, the success of the co-workers of I Party in W.P. No. 5615/2001 dated 29.03.2001, W.A. No. 3460/01 c/w W.A. No. 3459/01 dated 12.06.2002 and W.P. No. 26101/01 c/w W.P. Nos. 23798/01, 23797/01 & 23794/01 dated 01.06.2006, has inspired the I Party to file the present reference and in fact, the I Party has specifically pointed out in the claim statement and evidence that, the I Party is an illiterate person and the I Party is facing poverty, economic and social weakness and the I Party has repeatedly requested the II Party officials to provide employment to the I Party and Assistant Manager of II Party MW-1 has also admitted in his evidence that, I Party is an illiterate person and also the II Party has not established the real prejudice caused to the II Party, by the said delay.

11. Further, the Hon'ble High Court of Karnataka, in W.P. No. 9974/2006 (L-TER) dated 07.01.2015, (Before Mr. Hon'ble Chief Justice D.H. Waghela and Mr. Hon'ble Justice Budihal. R. B), in the case of The Management of National Aerospace Laboratories Vs Engineering & General Workers Union and the Managing Directors, it is particularly held as follows:- "The jurisdiction of an Industrial Tribunal, therefore, is expansive and creative and not restricted to only enforcing or interpreting the contract of service or the extant legal provisions and it is not-fettered by the limitations of contracts and can even involve extension of existing agreement of the making of a new one, or in general, creation of new obligations or modification of old ones." In the present case also, for the above mentioned facts and circumstances it is found that, I Party is entitled to get appropriate relief, in accordance with law, and the II Party is not justified in raising the objection on the ground of delay and latches, as per the said jurisdiction of the present Court. Thus, the point is answered in favour of the I Party.

12. Analysis, Discussion and Findings with regard to the above mentioned point/issue No. 2:-

The MW-1 the Assistant Manger of II Party, who has given evidence on behalf of II Party has admitted that, it is true to suggest that, there is no health unit and the working conditions as per the mining act have not been provided at the Mines. The said admission is also clinchingly established the various above mentioned allegation made as against the II Party. Further, MW-1 has admitted that, it is true to suggest that, as per the provisions of the mining act there should be a qualified doctor to attend the I Party workers at the mining site. If it is so, then there is no need for the II Party to get the doctor from Hatti Gold Mines and to subject the I Party to medical examination. On that ground only, I Party has clearly stated in the claim statement that, as per the illegal medical certificate, the social and economic weaker section person of the I Party has been refused to continue the work by the II Party.

13. Further, MW-1 namely, the Assistant Manager of II Party/Management has admitted that the II Party company has suffered loss of 21 crores due to mis-management and it is also true to suggest that, due to the said mis-management, the financial crisis has occurred and it is true to suggest, having suffered the said loss the management thought of reducing the number of workers and it is true to suggest that, the Management ordered for medical examination of all the mining workers. For the said reasons only, I Party has categorically stated in the claim statement that, II Party has suffered huge loss due to mis-management and in the way of reducing the number of workers they

have conducted illegal medical examination and terminated several workers including I Party. Further, MW-1 admitted that, to examine the workers doctors, have come from Hatti Gold Mines Ltd. However, he has admitted, that he does not know the names and qualifications of those doctors.

14. Further, in the counter statement the II Party has stated that, the I Party has been given opportunity to prefer an appeal before Appellate Medical Board within 30 days, if the I Party is aggrieved by the Medical Report. However, the MW-1 has categorically admitted that, it is true to suggest that, they have not produced the Medical certificate issued by the Doctor who has examined the I Party health condition and it is also true to suggest that, the Medical From 'O' is in English language. At the same time, the MW-1 has admitted that, I Party workers are illiterate workers. Hence, it is found that the said medical certificate has not been issued in the language known to the workers/I Party and also not understood by the I Party and in fact, the said medical certificate is also not submitted to this Court by the II Party. In such circumstances, it is too much on the part of II Party to content that I Party has got the appeal remedy as per the medical certificate and the workers have not availed the appeal remedy and hence they cannot file the present case before this Court. Further, MW-1 has admitted in his evidence that, the Doctors have not conducted the medical examination in his presence and he does not know in what respect the I Party has been found unfit to continue in service and he has to verify in the office whether copy of notice issued to I Party after medical examination or acknowledgement regarding service of notice on the I Party is available or not. So, the MW-1 has not produced the relevant records to establish that, after medical examination, proper record has been issued to I Party to appeal before 30 days. On the other hand, MW-1 has categorically admitted that, II Party has not produced the Medical certificate issued by the Doctor who has examined the I Party. Above all, MW-1 has admitted that, it is true to suggest that, I Party has not been issued with charge sheet and no enquiry has been conducted before the termination of his service. The said categorical admission of MW-1 shows that, II Party has not terminated the I Party as per the principles of natural justice.

15. Further, MW-1 has admitted that, it is true to suggest that as per the clause 18 and 24 any termination has to be followed by enquiry along with 3 months notice pay. However, MW-1has admitted that, I Party has not been issued with charge sheet and also, enquiry has been conducted. Hence, it is crystal clear that, II Party has not terminated the I Party in accordance with law. Further, MW-1 has admitted that, termination order has not been attached with copy of Medical Certificate pertaining to I Party. Furthermore, MW-1 has admitted that, he does not know in what respect the Medical Officer opined that, the I Party is being medically unfit. Further, MW-1 has admitted that, it is true that, II Party has not taken any permission from Labour Ministry or Labour Secretary under the provisions of I.D. Act for terminating services of several employees on the basis of medical grounds. Further, MW-1 has specifically admitted in his evidence that, it is true to suggest that I Party is the illiterate person and it is true to suggest that company has not furnished to the I Party the Kannada Version/translation of Medical Certificate which is in English and the company has enhanced the age of employees to 60 years w.e.f 17.07.2008. In the light of the above mentioned facts and circumstances it is found that, the II Party is not justified in submitting that, the I Party has to prefer only the appeal as against the medical certificate issued by the medical officer. Thus, the point/issue is answered as against the II Party.

16. Analysis, Discussion and Findings with regard to the above mentioned point/issue No. 3:- The I Party has stated in the claim statement that, he is entitled to work till attending the age of superannuation and the I Party's actual date of birth is registered in EPF, B-register and Service records, etc and suddenly, the II Party has refused to provide employment to the I Party, as per the so-called illegal medical examination and the co-workers have challenged the pre-matured retirements and age certification before the Hon'ble High Court of Karnataka, viz.,

(i) Writ Petition No. 5615/2001 between Smt. K.Dundamma Vs MML, and the same Management of II Party challenged the same in Writ Appeal No. 3460/2001 C/W W.No. 3459/2001. The said Appeal has been rejected on 12.06.2002 confirming the single Judge order dated 29.03.2001. In view of the said decision the Management reinstated the above mentioned pre-matured retired employee with payment of back wages, with continuity of service thereon.

(ii) Writ Petition No. 26101/2001,C/W W.P. Nos. 23798/2001, 23797/2001 & 23794/2001 filed by Sri V.C. Range Gowda and 8 others Vs MML, and the same has been allowed on 01.06.2006. The MW-1, the Assistant Manger of II Party has also admitted the said details, in his evidence. Further, the I Party has specifically pointed out that, on account of administrative problems faced by the II Party, the II Party adopted its own tactics, ways and means for terminating the Mining Workers in short cut methods and also, in an illegal and irregular manner by adopting anti-labour and un-fair labour practice and victimized the I Party and other co-workers by removing them enmasse by resorting to so-called Medical Examination during the year 1998 in illegal and irregular manner, without disclosing the true fact, to the I Party and also without notifying the so-called Medical Report i.e., not by a Doctor of a Rank of Assistant Civil Surgeon as defined in Rule 29-C of the Mines Rules 1995 and hence, the so-called Medical Examination conducted by the II Party is illegal and irregular, and the same is not having any legal sanctity and not sustainable in law as it is violative of Rule 29-C.

The MW-1, Assistant Manager of II Party has candidly admitted in his evidence that, due to mis-management, the II Party has suffered administrative problems, and hence, the II Party has decided to terminate the services of the I Party workers.

17. Further, it is specifically pointed out by the I Party that, II Party has no right to refuse the employment to the I Party without following the due process of Law and the II Party used the illegal, imaginary, hypothetical and unscientific Medical report as its tool for unilaterally deciding the age of I Party and other workers even though the correct age is mentioned in the EPF, B-register and Service records, and I Party is hale and healthy and entitled to work up to the age of superannuation. In the evidence also, I Party has stated the said details mentioned in the claim statement. Further, in the cross-examination, I Party has clearly pointed out that, it is not true to suggest that, as per the request made by the union the II Party subjected the I Party to medical check up and found the I Party unfit to continue in service. In the additional evidence also, the I Party has pointed out that, it is not true to suggest that as on termination, all amounts due to I Party have been received and the I Party has filed the present case, without any justification. Further, the II Party has also not produced any relevant records, to establish that, the II Party has paid all the amounts due to I Party as on the date of termination. Further, it is observed in the judgment reported in 1984-I-LLJ 388(SC) as follows:- "Acceptance of retirement benefits – Acceptance of retirement benefits by the workmen concerned – Whether precluded from raising Industrial Disputes Challenging Orders of retirement. On the materials placed by the management, held, neither a case of acquiescence nor a case of waiver on the part of workmen was made out – Held, the workmen were entitled to wages for the period between the dates of retirement and the dates of their reaching the age of 58 years." Also, in the judgment reported in 1997-II-LLJ 228(SC) it is held as follows:- "There is no statutory estoppels in favour of the Officer." Further, it is the settled law that, there is no estoppel as against the statutory rights/benefits, which the I Party/workman is entitled to get under the provisions of the Industrial Disputes Act, 1947 and the II Party has also not established that, the action has been taken by the II Party as against the I Party, as per the principles of natural justice and also, as per the procedure and practice to be followed in accordance with law. In the light of the above mentioned reasons, facts and circumstances it is found that, the II Party is not justified in submitting that, after the receipt of the terminal benefits the I Party cannot raise any dispute in the present case and thus, the point/issue is answered as against the II Party.

18. Analysis, Discussion and Findings with regard to the above mentioned point/issue No. 4:-

The I Party has categorically stated that, due to mis-management the II Party has suffered a loss and hence, the II Party has found its own tactics, ways and means for terminating the mines workers in short cut methods and also in an illegal and irregular manner by adopting anti-labour and un-fair labour practice and victimized the I Party and other co-workers by removing them enmasse by resorting to so-called Medical Examination during the year 1998 in illegal and irregular manner. Further, MW-1 has admitted in his evidence that the II Party has entrusted the work to private party in spite of availability of technical persons and machinery in the year 1995-1996 and hence, the II Party company has suffered a loss of about Rs. 21 crores and it is also true to suggest that, due to said mis-management the financial crisis occurred and also it is true to suggest that, having suffered the said loss the management thought of reducing the number of workers. Hence, it is clear that, the MW-1 of II Party has also admitted the said submissions made by the I Party in the claim statement. Further, MW-1 has admitted that, he cannot right now give the date, month and year of notice served to I Party and it is true to suggest that, I Party has not been issued with charged sheet and no enquiry has been conducted before the termination of the I Party. Further, MW-1, admitted that, it is true to suggest that as per the clause 18 and 24 any termination has to be followed by enquiry along with 3 months notice pay. However, MW-1 has clearly admitted that 3 months notice pay has not been paid to the I Party by the II Party.

19. Further, MW-1 has admitted in his evidence that, it is true to suggest that, there is Statutory Report, B Register and Provident Fund Register. Further, I Party has categorically stated that, the date of birth has been entered in the Statutory Report, B Register and Provident Fund Register and the II Party without any valid reasons pre-maturedly terminated the service of the I Party. Further, the date of birth of I Party mentioned in the claim statement is the same as mentioned in the employees register and Individual Workers History Sheet which is marked as Ex M-1, except in the case of CR No. 38/2008. Further, in the case of CR No. 38/2008, it is seen that, as per Employees Register, the date of birth of I Party is 01.06.1952. Also, the Circular relating to, enhancing the superannuation age from 58 years to 60 years to the workers of II Party, is applicable only to persons who are in employment as on 17.07.2008. Further, MW-1 has clearly admitted that, it is true to suggest that, as per Clause 18.3 of CDPR rules, the changes in the date of birth, as entered in the company record, can only effected on a judgment of a competent Court and except on a judgment of a Court, the date of birth once recorded, will not be changed at the request of the Officer/Employee under any circumstances. For that reason only, I Party has clearly stated that, the II Party has terminated the service of I Party pre-maturedly without any valid reasons. Further, the act of the II Party, certainly, is not proper and legal and also, no valid reasons have been furnished by the II Party for not producing the medical certificate issued to the I Party by the II Party and no valid reason has been furnished by the II Party, as to what prevented the II Party in not following the principles of natural justice and also for not producing the material records, though they are very important records, to prove the aforesaid details mentioned in the counter statement filed on behalf of II Party. Further, on the careful

perusal of material records mentioned in the Exhibits list, it is seen that, II Party has refused to provide work to the I Party without following the due process of law.

20. Further, it is found that, there is discrimination and also violation of fundamental right caused to the I Party and it is not proper and also, not legal to give forceful retirement to I Party, by the II Party, without following the due process of law. Further, it is seen that, the II Party has not terminated the service of the I Party as per the Principles of Preponderance of Probability. Further, no injustice can be caused by the II Party to the I Party and I Party cannot be victimized due to the actions of the II Party without any valid reasons. Further, it is relevant to mention that, the I Party/workman has been punished by II Party without adopting the procedure known under law. Further, the underlying aim and object of adjudication of an Industrial Dispute is, in effect, dispensation of social and economic justice and translating fundamental rights as well as directive principles into some tangible relief. The ultimate object is to see that industrial disputes are settled by industrial adjudication on principles of fair play and justice.

21. Further, the awarding of reinstatement does not amount to automatic conferment of back wages as held in 2009 (4) LLJ 667 (SC) Malla C.N. Vs State of Jammu and Kashmir & others. Further, it is held by the Hon'ble Supreme Court, in the case of APSRTC Vs B.S. David Pal, reported in 2006 (2) SCC 282, that the entitlement of back wages is not automatic on reinstatement. Awarding of back wages, depend upon other factors and circumstances. The I Party has pointed out in the claim statement that the I Party has been thrown out of employment and is facing hardship. In the affidavit also, the I Party has stated that with no financial income the I Party is facing great hardship. However, the claim of the workman that, the I Party is entitled for the full back wages, cannot be considered, having regard to fact that the I Party has not performed any work for II Party from 1998 to the date of superannuation, for the several years, and also, in order to balance the interest of both the parties, by adopting the balancing test or balancing process in the proper manner, this Court is of the considered opinion that in the facts and situation of the present case, 50% back wages and other consequential benefits only can be granted to the I Party. In the claim statement, the I Party has claimed interest, however the I Party has not enlightened the fact that the I Party is entitled to get interest also as prayed for in the claim statement by adducing relevant evidence and appropriate records. Hence, it is found that, the I Party is not entitled to get interest amount for the above mentioned factual reasons and also legal grounds.

22. Further, in the judgment reported in 2010-I-LLJ-861(SC), in C.A. No. 2874/2009, dated 28.04.2009, (Before Mr. Justice Tarun Chatterjee and Mr. Justice H.L. Dattu), in the case of Malwa Vanaspati & Chemical Co. Ltd. Vs Rajendra, it is held as follows:- "Back Wages – Entitlement for full back wages – Depends upon facts and circumstances of each case – Employee reinstated in service – Question of termination or reinstatement not in dispute – Employee only entitled to 50% back wages." Also, in the judgment reported in AIR 2009 Supreme Court 240, in C.A. No. 5425/2008, dated 02.09.2008, (Before Mr. Justice Tarun Chatterjee and Mr. Justice Aftab Alam), in the case of M.P. Electricity Board & Ors Vs Maiku Prasad, it is held as follows:- "Industrial Dispute Act (14/1947), Sch. 2, Item 6 – Back wages – Curtailment – Respondents' service terminated for unauthorised absence – Termination set aside by Labour Court – Direction for reinstatement and payment of full back wages passed – Considering long period between termination and reinstatement for which respondent has not worked – Back wages reduced to 50%." Further, in the judgment reported in 2010-I-LLJ-861(SC), in C.A. No. 2874/2009, dated 28.04.2009, (Before Mr. Justice Tarun Chatterjee and Mr. Justice H.L. Dattu), in the case of Malwa Vanaspati & Chemical Co. Ltd. Vs Rajendra, it is held as follows:- "Back Wages – Not to be granted mechanically, upon termination of service being held illegal- Service of workman terminated in 1987 – Labour Court gave its award in 2002 holding termination illegal – In circumstances of case, 50% back wages held proper and payment thereof accordingly directed." In the present case also, it is found that, the I Party is entitled to get 50% of the amount, out of the total amount of the monetary benefits with continuity of service, and other consequential benefits that I Party would have received in the absence of the impugned punishment of refusal to provide employment, by the II Party.

23. Further, in the judgment reported in 2009-I-LLJ 1 [SC], between Senior Regional Manager, TASMAC Ltd., and another Vs The M. Raviselvam, it is held as follows:- "Back wages-payment of back wages questioned- On reinstatement, full back wages is not to be paid automatically. It depends upon facts of each case. In the present case order for payment of back wages modified to the extent of 50% to be paid by the Management." And in the judgment reported in 1999-LLJ-I-pg 1260-1265 [SC], between Ajaib Singh Vs Sirhind Co-operative Marketing-Cum-Processing Service Society, it is clearly held as follows:- "Delay in seeking relief by workman against Termination of Service-Article 137 of Schedule to Limitation Act not applicable to proceedings under I.D. Act – Workman entitled to 60% of back wages." Further, in the judgment reported in 1990 [61] FLR 768, between Delhi Transport Corporation Vs D.T.C. Mazdoor Congress and others, it is held as follows:- "A confirmed and permanent employee-Terminated without one month's notice or pay in lieu of and without holding enquiry and affording any opportunity-Termination was illegal-Principles of natural justice violated." In the present case also, the II Party has terminated the I Party without following the Principles of natural justice and without holding enquiry and also without offering opportunity to the I Party to put forth his/her defence. Further, in the judgment reported in 2010-I-LLJ 682 [Bom], between Santhosh Kumar, S/o Babulal Gupta Vs Sub-Area Manager, Western Coal Fields Ltd., Maharastra and another, it is held as

follows:- "Dismissal of workman from service – no enquiry held – termination order not served on workman – punishment held disproportionate – deprivation of 50% back wages with warning issued to workman held would be proper." Further, the II Party has stated in the counter statement that, the I Party, on medical examination, has been found to be unfit to work. However, in the same counter statement II Party has stated that, I Party is happily working elsewhere since the date of termination and the I Party is working elsewhere also earning salary. In such circumstances, it is seen that, the submissions made by the II Party in the counter statement are self contradictory. On that ground also II Party is not justified in terminating the services of I Party without following the principles of natural justice, fairness and reasonableness. Further, on the totality of the above mentioned facts and circumstances, and also, after taking into consideration the evidences and exhibits mentioned herein below, in the proper perspective, the following award is passed, in the best interest of justice, equity and fair play.

(i) In C R No. 76/2007 Sh. Sannappa Vs MML

AWARD

The II Party/Management is not justified in imposing the punishment of termination of I party/Sannappa with effect from 19.02.1998 and II Party is directed to pay to the I Party 50% of the amount, out of the total amount of back wages and other consequential benefits, salary and allowances and all benefits due and payable to the I Party from the date of termination, namely, 19.02.1998 till the I Party attains the age of retirement i.e, 01.07.2009 to which the I Party would have been entitled in the absence of the impugned termination of service passed by II Party. In computing such benefits the I Party shall be deemed have been in continuous service of II Party, till the date the I Party attains the age of retirement and the present reference is answered, accordingly, without cost for the above mentioned peculiar facts and circumstances.

(ii) In C R No. 107/2007 Smt. S. Thimmamma Vs MML

AWARD

The II Party/Management is not justified in imposing the punishment of termination of I party/S. Thimmamma with effect from 28.06.1998 and II Party is directed to pay to the I Party 50% of the amount, out of the total amount of back wages and other consequential benefits, salary and allowances and all benefits due and payable to the I Party from the date of termination, namely, 28.06.1998 till the I Party attains the age of retirement i.e, 02.05.2008 to which the I Party would have been entitled in the absence of the impugned termination of service passed by II Party. In computing such benefits the I Party shall be deemed have been in continuous service of II Party, till the date the I Party attains the age of retirement and the present reference is answered, accordingly, without cost for the above mentioned peculiar facts and circumstances.

(iii) In C R No. 111/2007 Smt. B. Nanjamma Vs MML

AWARD

The II Party/Management is not justified in imposing the punishment of termination of I party/B. Nanjamma with effect from 16.04.1998 and II Party is directed to pay to the I Party 50% of the amount, out of the total amount of back wages and other consequential benefits, salary and allowances and all benefits due and payable to the I Party from the date of termination, namely, 16.04.1998 till the I Party attains the age of retirement i.e, 01.09.2003 to which the I Party would have been entitled in the absence of the impugned termination of service passed by II Party. In computing such benefits the I Party shall be deemed have been in continuous service of II Party, till the date the I Party attains the age of retirement and the present reference is answered, accordingly, without cost for the above mentioned peculiar facts and circumstances.

(iv) In C R No. 115/2007 Smt. Narasamma Vs MML

AWARD

The II Party/Management is not justified in imposing the punishment of termination of I party/Narasamma with effect from 18.02.1998 and II Party is directed to pay to the I Party 50% of the amount, out of the total amount of back wages and other consequential benefits, salary and allowances and all benefits due and payable to the I Party from the date of termination, namely, 18.02.1998 till the I Party attains the age of retirement i.e, 08.02.2002 to which the I Party would have been entitled in the absence of the impugned termination of service passed by II Party. In computing such benefits the I Party shall be deemed have been in continuous service of II Party, till the date the I Party attains the age of retirement and the present reference is answered, accordingly, without cost for the above mentioned peculiar facts and circumstances.

(v) In C R No. 162/2007 Sh. A. Siddaiah Vs MML

AWARD

The II Party/Management is not justified in imposing the punishment of termination of I party/A. Siddaiah with effect from 02.05.1998 and II Party is directed to reinstate and also, to pay to the I Party 50% of the amount, out of the total amount of back wages and other consequential benefits, salary and allowances and all benefits due and payable to the I Party to which the I Party would have been entitled in the absence of the impugned termination of service passed by II Party. In computing such benefits the I Party shall be deemed have been in continuous service of II Party, and the present reference is answered, accordingly, without cost for the above mentioned peculiar facts and circumstances.

(vi) In C R No. 38/2008 Smt. Siddamma Vs MML

AWARD

The II Party/Management is not justified in imposing the punishment of removal of I party/Siddamma with effect from 03.09.1998 and II Party is directed to pay to the I Party 50% of the amount, out of the total amount of back wages and other consequential benefits, salary and allowances and all benefits due and payable to the I Party from the date of removal, namely, 03.09.1998 till the I Party attains the age of retirement i.e, 01.06.2010 to which the I Party would have been entitled in the absence of the impugned removal of service passed by II Party. In computing such benefits the I Party shall be deemed have been in continuous service of II Party, till the date the I Party attains the age of retirement and the present reference is answered, accordingly, without cost for the above mentioned peculiar facts and circumstances.

(Dictated, transcribed, corrected and signed by me on 03rd October, 2017)

V. S. RAVI, Presiding Officer

(i) In C R No. 76/2007 Sh Sannappa Vs MML

List of Witness on the side of I Party:

WW 1	Sh. Sanappa , I Party/ workman and also, additional evidence

List of Witness on the side of II Party:

MW 1	Sh. Somanna, Assistant Manager, II Party/ Management

Exhibit marked on behalf of I Party:

Exhibits	Date	Description of Document
Ex W-1	-	Medical Examination Report Form 'O'
Ex W-2	29.03.2001	Order passed in W.P. No. 5615/2001
Ex W-3	12.06.2002	Order passed in W.A. No. 3460/2001 c/w 3459/2001
Ex W-4	01.06.2006	Order passed in W.P. No. 26101/2001 c/w 23798/2001, 23797/2001 & 23794/2001

Exhibit marked on behalf of II Party:

Exhibits	Date	Description of Document
Ex M-1	-	Individual Workers History Sheet

(ii) In C R No. 107/2007 Smt. S. Thimmamma Vs MML

List of Witness on the side of I Party:

WW 1	Sh. S. Thimmamma, I Party/ workman and also, additional evidence

List of Witness on the side of II Party:

MW 1	Sh. Somanna, Assistant Manager, II Party/ Management

Exhibit marked on behalf of I Party:

Exhibits	Date	Description of Document
Ex W-1	29.06.1998	Termination order issued to I Party
Ex W-2	29.03.2001	Order passed in W.P. No. 5615/2001
Ex W-3	12.06.2002	Order passed in W.A. No. 3460/2001 c/w 3459/2001
Ex W-4	01.06.2006	Order passed in W.P. No. 26101/2001 c/w 23798/2001, 23797/2001 & 23794/2001

Exhibit marked on behalf of II Party:

Exhibits	Date	Description of Document
Ex M-1	-	Register of Employees

(iii) <u>In C R No. 111/2007 Smt. B. Nanjamma Vs MML</u>

List of Witness on the side of I Party:

WW 1	Smt. B. Nanjamma, I Party/ workman and also, additional evidence

List of Witness on the side of II Party:

MW 1	Sh. Somanna, Assistant Manager, II Party/ Management

Exhibit marked on behalf of I Party:

Exhibits	Date	Description of Document
Ex W-1	-	Medical Examination Report Form 'O'
Ex W-2	22.05.1998	Termination Order issued to I Party
Ex W-3	29.03.2001	Order passed in W.P. No. 5615/2001
Ex W-4	12.06.2002	Order passed in W.A. No. 3460/2001 c/w 3459/2001
Ex W-5	01.06.2006	Order passed in W.P. No. 26101/2001 c/w 23798/2001, 23797/2001 & 23794/2001

Exhibit marked on behalf of II Party:

Exhibits	Date	Description of Document
Ex M-1	-	Register of Employees

(iv) In C R No. 115/2007 Smt. Narasamma Vs MML

List of Witness on the side of I Party:

WW 1	Smt. Narasamma, I Party/ workman and also, additional evidence

List of Witness on the side of II Party:

MW 1	Sh. Somanna, Assistant Manager, II Party/ Management

Exhibit marked on behalf of I Party:

Exhibits	Date	Description of Document
Ex W-1	-	Membership Application Form 'O'
Ex W-2	29.03.2001	Order passed in W.P. No. 5615/2001
Ex W-3	12.06.2002	Order passed in W.A. No. 3460/2001 c/w 3459/2001
Ex W-4	01.06.2006	Order passed in W.P. No. 26101/2001 c/w 23798/2001, 23797/2001 & 23794/2001

Exhibit marked on behalf of II Party:

Exhibits	Date	Description of Document
Ex M-1	-	Register of Employees

(v) In C R No. 162/2007 Sh. A. Siddaiah Vs MML

List of Witness on the side of I Party:

WW 1	Sh. A. Siddaiah, I Party/workman and also, additional evidence

List of Witness on the side of II Party:

MW 1	Sh. Somanna, Assistant Manager, II Party/ Management

Exhibit marked on behalf of I Party:

Exhibits	Date	Description of Document
Ex W-1	01.09.1996	Termination order issued to I Party
Ex W-2	12.06.2002	Order passed in W.A. No. 3460/2001 c/w

		3459/2001
Ex W-3	01.06.2006	Order passed in W.P. No. 26101/2001 c/w 23798/2001, 23797/2001 & 23794/2001
Ex W-4	29.03.2001	Order passed in W.P. No. 5615/2001

Exhibit marked on behalf of II Party:

Exhibits	Date	Description of Document
Ex M-1	-	Statement of Attendance Leave Emoluments etc.,

(vi) In C R No. 38/2008 Smt. Siddamma Vs MML

List of Witness on the side of I Party:

WW 1	Smt. Siddamma, I Party/workman and also, additional evidence

List of Witness on the side of II Party:

MW 1	Sh. Somanna, Assistant Manager, II Party/ Management

Exhibit marked on behalf of I Party:

Exhibits	Date	Description of Document
Ex W-1	07.11.2001	Employees Pension Scheme Certificate
Ex W-2	29.03.2001	Order passed in W.P. No. 5615/2001
Ex W-3	12.06.2002	Order passed in W.A. No. 3460/2001 c/w 3459/2001
Ex W-4	01.06.2006	Order passed in W.P. No. 26101/2001 c/w 23798/2001, 23797/2001 & 23794/2001
Ex W-5	22.08.2008	Circular relating to enhancing the superannuation age from 58 years to 60 years

Exhibit marked on behalf of II Party:

Exhibits	Date	Description of Document
Ex M-1	-	Register of Employees
Ex M-2	-	Medical Examination Report Form 'O'

नई दिल्ली, 17 नवम्बर, 2017

का.आ. 2705.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स केन्द्रीय भण्डारण निगम एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 43/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17.11.2017 को प्राप्त हुआ था।

[सं. जेड-16025/3/2017-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th November, 2017

S.O. 2705.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 43/2014) of the Central Government Industrial Tribunal/Labour Court, Bhubaneswar now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Central Warehousing Corporation and other and their workmen, which was received by the Central Government on 17.11.2017.

[No. Z-16025/3/2017-IR (M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

Present:

Shri B. C. Rath,
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 43/2014

Filed under section 2-A(2) of the I.D. Act

Date of Passing Order – 24th October, 2017

Between:

1. The Managing Director,
   Central Warehousing Corporation,
   Corporate Office, 4/1, Siri Institutional Area,
   Hauz Khas, New Delhi - 110016.

2. The Regional Manager,
   Central Warehousing Corporation,
   Block No. F/4, (Second Floor),
   Indradhanu Market Complex, Po. IRC Village,
   Nayapalli, Bhubaneswar,
   Dist. Khurda, Pin – 751015.

3. The Proprietor, Mind Mart, Allied Manpower Service Provider,
   C-43, 2nd Floor, Market Building,
   Saheednagar, Bhubaneswar, Dist. Khurda,
   Pin – 751007.

…1st Party-Managements

(And)

Shri Ajaya Kumar Swain,
S/o. Kasinath Swain, At. Basistha Nagar,
Old Town, Bhubaneswar, Dist. Khurda,
Pin – 751002. …2nd Party

Appearances :

Shri P.K. Kallo, Manager (G)	…	For the 1st Party-Management No. 1 & 2
None.	…	For the 1st Party-Management No. 3
None.	…	For the 2nd Party

ORDER

Authorized representative of the Management No. 1 and 2 is present. None appears on behalf of the Management No. 3 and the 2nd party on repeated calls. The case is posted today for hearing on the petition. The record reveals that the 2nd party is not taking any step to proceed with the matter since last occasion. It seems that the 2nd party might have lost its interest to prosecute the matter. Hence, the case is dismissed for default of the 2nd party.

Dictated & Corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 20 नवम्बर, 2017

का.आ. 2706.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, हिन्दुस्तान एयरोनॉटिक्स लिमिटेड, बैंगलोर एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बैंगलोर के पंचाट (संदर्भ संख्या 27/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.10.2017 को प्राप्त हुआ था।

[सं. एल-42012/61/2016-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 20th November, 2017

S.O. 2706.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 27/2016) of the Central Government Industrial Tribunal/Labour Court, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the General Manager, Hindustan Aeronautics Ltd., Bangalore and their workman, which was received by the Central Government on 26.10.2017.

[No. L-42012/61/2016-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 13th OCTOBER 2017

PRESENT : Shri V S RAVI, Presiding Officer

C R No. 27/2016

I Party	**II Party**
Sh. Karumbaiah N.S & 63 Others, 6351 Department, Helicopter Division, HAL, Bangalore - 560017	The General Manager, Hindustan Aeronautics Limited, Helicopter Division, Bangalore – 560017

Advocates for I Party	: Advocates for II Party:
Mr. V.S. Naik & Ms. V. Malathi	: Mr. S.V. Shastri & Mr. Ravindranatha. K

AWARD

1. The Central Government *vide* Order No.L-42012/61/2016-IR(DU) dated 04.07.2016 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

"Whether the demand of Shri Karumbaiah & 63 Others for granting the Special Process Allowance of Rs. 25-00 per day to them is legal and justified? If so, what relief are they entitled to?"

2. The I Party has submitted in the claim statement as follows:-

The I Party prays this Court, to

a) Answer the point of dispute in favour of the I Party holding that, the I Party workmen are entitled for Special Process Allowance of Rs. 25/- per day (Rupees twenty five per day) w.e.f. 01.01.2007 and with further directions to the II Party Management to pay the arrears of Special Pay Allowance and to continue to pay the same every month and pass such other order or orders as deemed necessary in the interest of justice and fair play.

3. However, in the Judgment passed by the Hon'ble Supreme Court in Civil Appeal Nos. 9332-9333/2010, dated 26.02.2016, in the case of Nashik workers Union Vs Hindustan Aeronautics Limited, it is clearly held as follows:- "As we have set aside the order passed in L.P.A. No. 84 of 2006 and opined that the 'appropriate Government' in relation to the respondent company (HAL) is the State Government, the matter has to be remitted to the High Court for fresh adjudication on merits."

4. In the above mentioned facts and circumstances, an important and preliminary point arises for consideration, with regard to the above mentioned matter as follows:- "Whether this Court lacks jurisdiction to try the present Matter?"

5. **POINT :-** In the present case, the I Party has prayed to answer the point of dispute in favour of the I Party holding that, the I Party workmen are entitled for Special Process Allowance of Rs. 25/- per day (Rupees twenty five per day) w.e.f. 01.01.2007 and with further directions to the II Party Management to pay the arrears of Special Pay Allowance and to continue to pay the same every month and pass such other order or orders as deemed necessary in the interest of justice and fair play.

6. Further, in the Written Arguments filed on behalf of I Party, it has been pointed out that, on the issue relating to maintainability of the dispute, this Tribunal by referring to the judgment of the Hon'ble Supreme Court of India dated 26.02.2016 in C.A. No. 9332-9333/2010 in the case of Nashik Workers Union Vs HAL has called upon the parties to examine and submit with regard to maintainability of the dispute on the ground that in respect of the dispute pertaining to HAL the appropriate government is the State Government.

7. Further, taking into consideration the above mentioned points and principles as laid down by the Lordships of the Hon'ble Supreme Court of India, this Court has no other alternative, except to follow the said judgement of the Hon'ble Supreme Court of India. In fact, the I Party has also not raised any appropriate, suitable, tenable and proper objection regarding the said details, in accordance with law. At the same time, this Court is not expressing any opinion on other issues raised by both the sides, as this Court lacks jurisdiction to entertain the present matter of this nature and also liberty is granted to the I Party to raise the dispute before the proper, competent and appropriate Judicial Forum/Tribunal/Court within 30 days from the date of receipt of the present Award passed by this Court, in the best interest of justice, equity and fair play. Accordingly, this point is answered. Hence, the following Award is passed:-

AWARD

This Tribunal has no jurisdiction to entertain the dispute raised by the I party, particularly, in the light of the above mentioned judgement passed by the Hon'ble Supreme Court in Civil Appeal Nos. 9332-9333/2010, dated 26.02.2016, in the case of Nashik workers Union Vs Hindustan Aeronautics Limited and the present matter suffers for want of jurisdiction before this Court and liberty is given to the I party to raise the dispute before the proper, competent and appropriate Judicial Forum/ Tribunal/Court, within 30 days from the date of receipt of the present Award, by adopting the procedure known under the law, in the best interest of justice, equity, good conscience and fair play and this Court has not expressed any opinion regarding the various other issues raised by both the parties, as the present matter has been disposed of, on the limited ground of jurisdiction point alone, and also, without costs, for the above mentioned facts and circumstances.

(Dictated, transcribed, corrected and signed by me on 13th October, 2017)

V. S. RAVI, Presiding Officer

नई दिल्ली, 20 नवम्बर, 2017

का.आ. 2707.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार प्रबंध निदेशक, हिन्दुस्तान एयरोनॉटिक्स लिमिटेड, बैंगलोर एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बैंगलोर के पंचाट (संदर्भ संख्या 09/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25.10.2017 को प्राप्त हुआ था।

[सं. एल-42011/02/2010-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 20th November, 2017

S.O. 2707.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 09/2013) of the Central Government Industrial Tribunal/Labour Court, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the the Managing Director, Hindustan Aeronautics Ltd., Bangalore and others and their workmen, which was received by the Central Government on 25.10.2017.

[No. L-42011/02/2010-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 13th OCTOBER 2017

PRESENT : Shri V. S. RAVI, Presiding Officer

C R No. 09/2013

I Party	**II Party**
Sh. M.N. Krishnan & 16 others, Mechanic (E), Jaguar Final Assembly, HAL (BC), Aircraft Division, Bangalore – 560017.	1. The Managing Director, HAL, HAL Complex, Bangalore – 560017. 2. The General Manager, HAL, Overhaul Division, HAL (BC), Bangalore – 560017. 3. The General Manager, HAL, Aircraft Division, HAL(BC), Bangalore- 560017.

Advocates for I Party	:	Advocates for II Party:
Mr. V.S. Naik & Mr. Raghavendra	:	Mr. T. Rajaram & Associates

AWARD

1. The Central Government *vide* Order No.L-42011/02/2010-IR(DU) dated 28.03.2013 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

"Whether the action of the management of Aircraft Division, HAL(BC), Bangalore, in denying promotion and other service benefits to Shri. M.N. Krishnan & 16 Others (list enclosed), is legal and justified? What relief the workmen are entitled to?"

2. The I Party has submitted in the claim statement as follows:-

The I Party prays this Court, to

a) Answer the points of dispute in favour of the workmen by holding that the Management of HAL is not justified in denying promotion and other service benefits to the I Party workmen and with further directions to direct the II Party to extend the benefit of promotion and all other service benefits including consequential pay fixation and arrears of salary and pass such other order or orders as deemed necessary to meet the ends of justice.

3. However, in the Judgment passed by the Hon'ble Supreme Court in Civil Appeal Nos. 9332-9333/2010, dated 26.02.2016, in the case of Nashik workers Union Vs Hindustan Aeronautics Limited, it is clearly held as follows:- "As we have set aside the order passed in L.P.A. No. 84 of 2006 and opined that the 'appropriate Government' in relation to the respondent company (HAL) is the State Government, the matter has to be remitted to the High Court for fresh adjudication on merits."

4. In the above mentioned facts and circumstances, an important and preliminary point arises for consideration, with regard to the above mentioned matter as follows:- "Whether this Court lacks jurisdiction to try the present Matter?"

5. **POINT :-** In the present case, the I Party has prayed to answer the points of dispute in favour of the workmen by holding that the Management of HAL is not justified in denying promotion and other service benefits to the I Party workmen and with further directions to direct the II Party to extend the benefit of promotion and all other service benefits including consequential pay fixation and arrears of salary and pass such other order or orders as deemed necessary to meet the ends of justice.

6. Further, in the Written Arguments filed on behalf of I Party, it has been pointed out that, on the issue relating to maintainability of the dispute, this Tribunal by referring to the judgment of the Hon'ble Supreme Court of India dated 26.02.2016 in C.A. No. 9332-9333/2010 in the case of Nashik Workers Union Vs HAL has called upon the parties to examine and submit with regard to maintainability of the dispute on the ground that in respect of the dispute pertaining to HAL the appropriate government is the State Government.

7. Further, taking into consideration the above mentioned points and principles as laid down by the Lordships of the Hon'ble Supreme Court of India, this Court has no other alternative, except to follow the said judgement of the Hon'ble Supreme Court of India. In fact, the I Party has also not raised any appropriate, tenable suitable and proper objection, regarding the said details, in accordance with law. At the same time, this Court is not expressing any opinion on other issues raised by both the sides, as this Court lacks jurisdiction to entertain the present matter of this nature and also liberty is granted to the I Party to raise the dispute before the proper, competent and appropriate Judicial Forum/Tribunal/Court within 30 days from the date of receipt of the present Award passed by this Court, in the best interest of justice, equity and fair play. Accordingly, this point is answered. Hence, the following Award is passed:-

AWARD

This Tribunal has no jurisdiction to entertain the dispute raised by the I party, particularly, in the light of the above mentioned judgement passed by the Hon'ble Supreme Court in Civil Appeal Nos. 9332-9333/2010, dated 26.02.2016, in the case of Nashik workers Union Vs. Hindustan Aeronautics Limited and the present matter suffers for want of jurisdiction before this Court and liberty is given to the I party to raise the dispute before the proper, competent and appropriate Judicial Forum/ Tribunal/Court, within 30 days from the date of receipt of the present Award, by adopting the procedure known under the law, in the best interest of justice, equity, good conscience and fair play and this Court has not expressed any opinion regarding the various other issues raised by both the parties, as the present matter has been disposed of, on the limited ground of jurisdiction point alone, and also, without costs, for the above mentioned facts and circumstances.

(Dictated, transcribed, corrected and signed by me on 13th October, 2017)

V. S. RAVI, Presiding Officer

नई दिल्ली, 20 नवम्बर, 2017

का.आ. 2708.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महानिदेशक अखिल भारतीय रेडियो, नई दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़ के पंचाट (संदर्भ संख्या 10/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16.10.2017 को प्राप्त हुआ था।

[सं. एल-42011/25/2016-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 20th November, 2017

S.O. 2708.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 10/2016) of the Central Government Industrial Tribunal/Labour Court-2, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the Director General All India Radio, New Delhi and Others and their workman, which was received by the Central Government on 16.10.2017.

[No. L-42011/25/2016-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri Kewal Krishan, Presiding Officer

Case No. I.D. No. 10/2016

Registered on 13.04.2016

Casual Labour Employees Association, Radio Kashmir Srinagar, J & K India. …Petitioner

Versus

1. Director General All India Radio. Akashwani Bhawan, Parliament Streed, New Delhi-110001.
2. Chief Executive Officer, Prasar Bharti, PTI Building, Sansad Marg, New Delhi.
3. Deputy Director General, Radio Kashmir, Srinagar, J&K-190001, India. …Respondents

APPEARANCES

For the workman : Sh. Sajad Ahmad Mir, Adv.

For the Management : Sh. Sanjay Goyal, Adv.

AWARD

Passed on: 18.09.2017

Vide Order No. L-42011/25/2016-IR(DU), dated 29.03.2016 the Central Government in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Disputes Act, 1947 (in short Act) has referred the following industrial dispute for adjudication to this Tribunal.

> "Whether the action of the management of Radio Kashmir, Srinagar representing through its Chief Executive Officer in not regularizing the services of 37 casual workers of Radio Kashmir Srinagar w.e.f. the date of their joining in the department is legal and justified? If not, to what relief these workmen are entitled to and from which date?"

In response to the notice, the claimants filed statement of claim, to which the respondent-management filed reply.

The admitted facts are that, the claimants are casual labourers with the respondents, rendering services since 1991 to 1999 and were deputed for procurement of technical items from the market, running of diesel gensets, maintenance of transmitters, cooking meals and other ancillary jobs. They were engaged during the days of militancy and they worked at the cost of their lives with the hope that some scheme/policy will be devised to regularize their services. They have rendered more than 20 to 25 years of service and they have crossed their upper age limit for recruitment or absorption in other departments.

That the management issued a Circular dated 15.03.2000 and blanket ban was imposed for engaging casual labourers. However, the workmen were not covered under the said circular. The workmen has been working without any break in their services and they made various representations to different authorities at different times for regularization of their services and the various committees visited Srinagar for the purpose but, of no affect. However, their case was strongly recommended for regularization by the Office of Hon'ble Prime Minister. When no action was taken on the representations, they again agitated the matter. A committee was constituted by Radio Kashmir Srinagar in April 2015. The Committee considered the case of the claimants and opined that final decision will taken by DOP&T which is a policy making department. It is also pleaded that respondent no.3 has forwarded the case of the workmen to respondent no.1 and 2 for their regularization but of no affect.

Since they have rendered long service with the respondents, it is prayed that direction be given to the respondents for regularization of their services, and to release withheld service benefits and to prepare their service books.

Respondent-management filed written statement, pleading that the workers were working on job contract basis and it is stipulated in their job contract that they will not claim regularization. They are paid wages as per rates approved by the Chief Labour Commissioner, New Delhi. That the respondent is a Public Sector Undertaking and governed by the Rules and Regulations prescribed by the Government of India, DOP&T Department. Any appointment on permanent basis is to be made through Staff Selection Commission-Committee/Board. That the claimants cannot be absorbed on permanent basis as they do not meet the required criteria, though the respondent are very sympathetic towards them and have tried to accommodate them as far as possible within the ambits of regulations. It is further pleaded that many of the casual labourers, who met the 1993 DOPT&T guidelines were granted temporary status but the workmen did not fulfill the criteria for the purpose.

It is further pleaded that the respondent-management is engaging casual artists daily in hundreds and if the casual workers are to be granted permanent status, the respondent-management will end up with lakhs of employees which is not economically viable.

It is further pleaded that the respondent-management is not an 'industry' as defined in Section 2(I), 2(K) and the workmen are not workmen under Section 2(S) of the Act.

Parties were given opportunity to lead the evidence.

In support of his case, the workmen-union examined Sh. Qazi Ahmed, who filed his affidavit Ex.A1, reiterating the case as set out in the claim petition.

On the other hand, respondent-management has examined Sh. S.H. Quasar, who filed his affidavit reiterating the case as set out in the written statement.

I have heard Sh. Sajad Ahmad Mir for the workmen and Sh. Sanjay Goyal for the management and perused the file carefully.

It was vehemently argued that the workers were employed as casual labourers from the year 1991 to 1999 with the respondent-management during the militancy days and they performed various duties assigned to them from time to time and despite having made several representations for the regularization of their services, no action was taken by the respondents and their services were not regularized. It was also argued that the persons posted on regular posts and doing the work as assigned to the workmen are getting higher pay and the workmen be also granted the same pay on the principle of "equal pay for equal work".

It was further argued that the workmen have been discharging their duties for the last more than 20 to 25 years but no service book has been prepared and the same be prepared. It was also argued that the workmen be at least granted the temporary status as granted to other labourers and submitted that the reference be answered accordingly in favour of the workmen.

Opposing this contention, it was argued by the learned counsel for the management that claimants are not workmen and were employed as casual labourers on job contract basis with stipulated terms and conditions which contained a clause that they would not claim any regularization and the contract is renewed every month, and, as such the claimants cannot claim either regularization of their services or the grant of temporary status. It was further argued that many of the casual labourers who met the 1993 DOP&T guidelines, were granted temporary status. The claimants were not accommodated as they did not fulfill the criteria for the purpose. That the respondents are very sympathetic towards workmen and have tried to accommodate them within the ambit of rules and regulations issued by the Government of India and their services cannot be regularized by the respondents. It was further argued that the respondent-management is not an 'Industry' and the casual labourers employed by it, are not 'workmen' as defined under Section 2(S) of the Act.

I have considered the respective contentions.

In All India Radio versus Santosh Kumar and other etc. Civil Appeal No.2423 of 1989 decided on February 5, 1998, the Hon'ble Supreme Court specifically held that All India Radio is an 'industry' and it was observed in Para 4 of the judgment as follow:-

> **"Consequently, it must be held that the appellant-All India Radio as well as Doordarshan are industries within the meaning of Section 2(J) of the Act and the said definition is operative being applicable at present and as exiting on the Statute Book as on date."**

Thus, the contention raised that the respondent-management is not an 'industry' and the casual labourers employed by it are not workers under the Act is of no force.

It is a admitted fact that the workmen are doing their duties on various assignments in Radio Kashmir, Srinagar, and were engaged from the year 1991 to 1999 as find mention in Annexure P2 and the contents of Annexure P2 are not denied. There is again no dispute that the respondent-management is a Public Sector Undertaking and is governed by Rules and Regulations issued by the Government for appointment on permanent basis which is made through Staff Selection Commission/Committee.

The workmen did not produce the said rules and regulations and there is nothing on the file to suggest that respondent management has violated the said rules while refusing regular appointment to the workman. Since there is a procedure prescribed by law which is to be followed for making an appointment on permanent basis, the workmen cannot claim regularization of their services only on the basis of their length of service and as such, the act of the respondent-management in not regularizing the services of the casual workers is not illegal and unjustified.

The contention of the learned counsel for the respondent-management that workmen are working on contract basis and are not employees of the respondent-management, has drawn my attention to a job contract(Annexure R1), wherein it is

mention that job contract is given for the month of May, 2016 to Sh. Quazi Hamid Ahmed. It is further submitted that such letters are issued from time to time to the workmen every month and as such they are not employees of the respondent-management. This contention is devoid of any force. It is not disputed that workmen are in continuous service of the respondent-management for the last several years as find mention in Annexure A2, which is undisputed and as such, it cannot be said that they are not employees of the respondent-management. The job contract got signed from the workmen is just a camouflage to avoid any liability and the same do not advance the case of the respondent-management in any way.

It is not disputed that the workmen made various representations to different authorities at different times and certain Committees were constituted for considering the matter for regularization of the services of the workmen who have been in service since long. The Standing Committee on Labour of Lok Sabha vide its Office Memo No.3/1/1/CLB-2011 dated 16 February, 2014, which is a part of Annexure 5 also recommended that to mitigate injustice given to the workmen, recommended that no casual worker be laid off at the local level and casual worker be paid wages at par with the rates prescribed by the Ministry of Labour and Employment under the Minimum Wages Act for similar nature of jobs and skill sets. The workmen agitated the matter before the Regional Labour Commissioner to which the respondent-management filed reply dated 13.01.2014, which is a part of Annexure P9 admitting the case of the workmen had further pleaded that the case of the workmen was forwarded to Director General for regularization of their services.

The respondent-management in its written statement have pleaded that they are sympathetic towards the workmen and tried to accommodate them as far as possible within the ambit of regulations; and many of the casual labourers were granted temporary status as per Casual Labourers (Grant of Temporary Status and Regularization)Scheme of Govt. of India, 1993.

The said scheme is not an ongoing scheme. The stand taken by the respondent-management and the recommendations of various committees, it seems that no relief was given to the workmen who have been in service since long in the absence of rules and regulations. The temporary status has been granted to casual labourers as per the stand taken by the respondent-management in view of the Scheme of 1993.

In order to mitigate agony, hardship and uncertainty in the services of the workmen who have been working with the respondent-management uninterruptedly for the last more than 20 years, it is a fit case where the respondent-management be ordered to give temporary status to the workmen as earlier given to some of the casual labourers as per its own case as set up in written statement. Though, the scheme for grant of temporary status as per Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Govt. of India, 1993 is not in force but independent of that the workmen are to be granted temporary status as envisaged under said Scheme.

Thus, the reference is answered holding that the act of the respondent-management in not regularizing the services of 37 casual workers is not illegal and unjustified. However, the present workers are entitled to get 'temporary status' as was given to other workers.

The respondent-management is directed to grant 'temporary status' within one month of the publication of the award and the workmen shall get the temporary status from the date of conferring of the said status on them by the respondent-management and be entitled for all the benefits as available to the workmen who were granted temporary status as per Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Govt. of India, 1993.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 20 नवम्बर, 2017

का.आ. 2709.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बीएसएनएल का प्रबंधन एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, धनबाद के पंचाट (संदर्भ संख्या 24/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17.10.2017 को प्राप्त हुआ था।

[सं. एल-40012/27/2015-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 20th November, 2017

S.O. 2709.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 24/2015) of the Central Government Industrial Tribunal/Labour Court-1, Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the Management of M/s. BSNL and their workman, which was received by the Central Government on 17.10.2017.

[No. L-40012/27/2015-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1)(d) (2A) of I.D.Act, 1947

Reference No. 24/2015

Employers in relation to the management of M/s. BSNL

And

Their workman

Present : Shri R.K.Saran, Presiding Officer

Appearance:

For the Employers : Shri Sushil Prasad, Advocate

For the workman : Shri D.K.Verma, Advocate

Industry : Telecom

Dated : 12/10/ 2017

AWARD

By order No . L- 40012 /27/2015 /IR (DU) dated 10.06.2015, the Central Government in the Ministry of Labour has in exercise of the power conferred by clause (d) of sub – section (1) and sub–section (2A) of section 10 of the Industrial Disputes Act , 1947 referred the following dispute for adjudication to this Tribunal :

SCHEDULE

"Whether the action of the management of Bharat Sanchar Nigam Limited in terminating the service of Shri Prakash Kumar Pandit S/O Shri Lacho Pandit w.e.f. 01.03.2014 is illegal, arbitrary and violation of the section 25 F of I.D Act 1947? If yes to what relief the workman is entitled to?"

2**.** The case is received from Ministry of Labour on 25.06.2015. The workman files their written statement on 01.07.2015, and the management files their written statement on 01.09.2015. Thereafter rejoinder and document filed by the parties. One witness on behalf of the workman examined but no witness examined on behalf of the management nor any document filed. But documents of the workman marked as W-1 to W-3.

3**.** The case of the workman is that he was initially appointed as casual labour by the management of BSNL and thereafter the sub-Divisional engineer (P) Jharia, sub-Division Dhanbad issued identity Card to the workman concerned, thereafter he was deputed by the SDE, Jharia of BSNL at Lodna Area No. 10 of BCCL for maintenance of BTS and since then he was working there to the satisfaction of concerned authority. Thereafter the management declared him permanent workman and accordingly he became the member of employees provident fund scheme 1952.

4**.** It is further submitted by the workman that the management utterly violated the provision of Sec. 25 F of I.D Act 1947 and terminated the services of the workmen concerned and deputed another workman namely Kesho Mahto in his place w.e.f 01.03.2014 but the concerned workman completed 240 days attendance each and every year. He worked in permanent and perennial nature of job from 01.04.2010 to 01.03.2014 continuously without any break, But before the terminating the services of the workman, the management neither issued any show cause notice nor paid retrenchment compensation, and the management also not paid him any notice pay in lieu of notice and retrenchment compensation as per mandatory provision of Section 25 F of I.D Act.1947. Hence the termination of the workman is illegal retrenchment. Accordingly industrial Dispute arose.

5**.** On the other hand the case of the management is that the workman was never employed by the management of BSNL hence there is no matter of termination of the so-called workman as there is no relationship of employee and employer between the so-called workman prakash Kr. Pandit and the management of BSNL. Accordingly the so called workman Prakash Kumar Pandit does not comes under provision of 25 F of I.D.Act 1947.

6. It is further submitted by the management that the so-called workman was never appointed as casual labour under the management of BSNL but the identity card if any issued to the so-called workman is nothing but a document issued to the labour deployed by the contractor for short period only on security point of view.

7. The short point to be decided as to whether the termination of the workman from job from BSNL management is legal or not.

8. The workman submits that he is rendering service to the BSNL continuously and he was issued identity Card by BSNL and his E.P.F was also deducted. Evidencing that he produced the photocopy of I.D Card and E.P.F papers. But

the management urges, that the workman was engaged through contractor but has not disclosed the name of the contractor nor denied the workman's document and took the plea that the management , neither issued appointment letter nor termination letter to him and regularization of workman is only giving scope of backdoor entry which is not permissible.

9. From I.D. Card of workman it is mentioned that he was a casual employee of BSNL and it is issued on 04.10.2011 and validate up to 31.10 2012 and second was issued on Jan. 2013 and validate up to 31.12.2014 issued by Sub Divisional Engineer (P) Jharia,Dhanbad not by any contractor.

10. It is also seen that his E.P.F was also deducted. For which the management neither examined any witness nor filed any sheet of paper to prove that he was not the workman of BSNL rather he was a contractor workman.

11. It is proved that neither compliance of Section 25 F I.D Act nor pay any retrenchment compensation by the management of BSNL.

12. On perusal of I.D Card it is presumed that he was worked from 04.10.2011 to 31.10.2012 under BSNL management, it means he completed one year work in two or three phase, hence it is felt that he worked for 240 days in a year. Rather attendance is not filed and proved by either side. In this context the order of Hon'ble **Punjab & Haryana High Court,** which is reported in **2014 LLR 1210 in LPA No. 1200/2014 (O&M)** it is held and quoted below

> **"Termination of services of a workman, who has worked for more than 240 days without making compliance of section 25 F of I.D Act is illegal attracting reinstatement with back-wages."**

13. Considering the facts and circumstances of this case , I hold that the action of the management of Bharat Sanchar Nigam Limited in terminating the service of Shri Prakash Kumar Pandit S/o Shri Lacho Pandit w.e.f. 01.03.2014 is illegal, arbitrary and violation of the section 25 F of I.D. Act 1947, Hence it is felt that the management to take the workman as casual employee again and pay wages accordingly.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 20 नवम्बर, 2017

का.आ. 2710.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, मैसर्स ऑर्डिनेंस क्लॉज फैक्टरी, शाहजहांपुर और उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 07/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07.11.2017 को प्राप्त हुआ था।

[सं. एल-42025/03/2017-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 20th November, 2017

S.O. 2710.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 07/2017) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the employers in relation to the General Manager, M/s. Ordinance Clothing Factory, Shahjahanpur and their workman, which was received by the Central Government on 07.11.2017.

[No. L-42025/03/2017-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT LUCKNOW

PRESENT : RAKESH KUMAR, Presiding Officer

I.D. No. 07/2017

BETWEEN :

Sri Ram Chander S/o Sri Ghirau & 32 others

Village-Dadawa, Post-Kuriyar

Distt. Basti

AND

1. The General Manager,
M/s. Ordinance Clothing Factory
Shahjahanpur.

AWARD

1 The workman petitioner Sri Ram Chandra & 32 others have filed petition against M/s. Ordinance Clothing Factory, Shahjahanpur under Section 2A of the I.D. Act. for adjudication.

2 The petitioner Sri Ram Chandra has claimed himself to have been authorized to file the petition on behalf of the 33 workmen whose names are given in the list enclosed with the petition. It has been stated in brief that all the workmen had completed more than 240 days' continuous service without any break w.e.f. from their different dates of appointment but the management has terminated their services w.e.f. 25.05.2000 without any reasonable and genuine cause. No prior notice or pay in lieu of notice or any retrenchment compensation was paid. Provisions of Section 25 of the I.D. Act have been allegedly violated by the management. The workmen have further asserted that no notice or charge sheet was ever given to them, no opportunity was provided to submit any explanation before their termination. More over, no seniority list was prepared and the principle of "First come Last Go" was not followed.

3. It has been stressed in the claim statement that the workmen have tried to attend their duties but they were not allowed, to perform duty and were arbitrary terminated on the oral order, without passing any written order; and some new persons were engaged by the management without giving any chance to the enlisted workers. Due to malafide intention of management no wage slip was given to the workers and ex-gratia bonus for the year 2000 was also not paid, gratuity was not paid and Provident Fund has also not been disbursed.

4. The petitioner has stressed that no prior permission was taken by the management from Government before retrenchment. It has further been alleged that as per the statement given by the Defence Minister in Lok Sabha, 3550 posts are vacant. Breach of provision of Section 25(o) of the I.D. Act, Contract Labour Regulation and Abolition Act.1970, Central Labour Act.1970 etc. have been alleged. Citation of Hon'ble Supreme Court case has been referred in the claim Statement. The workmen have asserted that they were receiving wages directly from the office of Factory and not through any contractor etc. and they were allowed to enter the premises after checking their gate pass issued by the management and their attendance was taken on the register by the authorities. The Factory has not been registered at the RLC (C) Office as per the Act of 1971. Hon'ble Supreme Court's Directions have also been mentioned in the claim statement. An award adjudicated by the CGIT in I.D. 57/04 has also been referred. Further, Hon'ble High Court, Allahabad's order dated 14.12.2016 has been mentioned in the claim statement.

5. With the aforesaid averments, request has been made by the workmen for their reinstatement with all back wages and consequential benefits etc. in the light of the order dated 17.4.2015 passed by the Tribunal in the I.D. 57/2004.

6. Certain documents have been annexed with the claim statement.

7. The management has filed affidavit of Sri Kshitij Dixit, in the form of written statement. The management has submitted that the petitioner have raised their grievance before ALC (C) Bareilly and order dated 14.12.2016 has been passed that the proceedings will be kept in abeyance till the case is decided by the Hon'ble High Court. Even then the applicants have filed the instant case I.D. No. 7/17 they have also filed writ petition No. 17100/17; before Hon'ble High Court, Allahabad. In compliance of order of Hon'ble High Court, ALC issued notice to parties but the petitioner have concealed the facts before the Hon'ble High Court that they have filed I.D. 7/17 which is pending yet. The management has submitted that the said I.D. is liable to be dismissed. Hon'ble High Court's order dated 1.9.15, 2.5.17 alongwith other documents have been filed by the management.

8. The workman has moved an application W-6 dated 2.8.2017 requesting there in that in compliance of Hon'ble High Court's order dated 2.5.17, since the conciliation proceeding was pending before ALC, Bareilly the matter was referred to the Government of India and therefore this I.D. is not matured, the petitioners be permitted to withdraw their case. Hon'ble High Court's order dated 2.5.2017 alongwith other documents have been annexed by the petitioner.

9. Arguments of both the parties have been heard at length and record has been perused.

10. The petitioners have alleged that they have completed more than 240 days' continuous service. The management has submitted that the material fact has been concealed by the petitioner and this present I.D. is premature.

11. Hon'ble High Court vide order dated 2.5.17 in writ petition no.17100 of 2017 has observed ;

> "As such the writ petition is allowed and the order dated 14.12.2016 passed by the Assistant Labour Commissioner is set aside and the authority is directed to pass a fresh order in respect of the prayer made by the petitioners for making a reference for adjudication by a competent Labour Court/Industrial Tribunal, in accordance with law as expeditiously as possible, preferably within a period two months from the production of a certified copy of this order, which the petitioners undertake to file before the said authority within two weeks from day.

Accordingly, the writ petition is allowed."

12. It is quite evident from the above order that Hon'ble High Court has directed the ALC (C) to pass fresh order in respect of the prayer made by the petitioner for making reference for adjudication by labour Court in accordance with law as expeditiously as possible. Moreover the petitioner themselves have requested to withdraw the case.

13. After having heard both the parties in the light of Hon'ble High Court's orders, taking into account the record available before the court it is inferred that under the present circumstances the 33 workmen are not entitled to any relief.

14. Award as above.

RAKESH KUMAR, Presiding Officer

LUCKNOW

23.10.2017

नई दिल्ली, 20 नवम्बर, 2017

का.आ. 2711.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डाक विभाग का प्रबंधन एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, धनबाद के पंचाट (संदर्भ संख्या 13/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31.10.2017 को प्राप्त हुआ था।

[सं. एल-20012/83/1996-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 20th November, 2017

S.O. 2711.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 13/1998) of the Central Government Industrial Tribunal-cum-Labour Court-1, Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the Management of Postal Department and their workmen, which was received by the Central Government on 31.10.2017.

[No. L-20012/83/1996-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947.

Reference: No. 13/1998

Employer in relation to the management of Postal Department

AND

Their workman

Present: Shri R.K.Saran, Presiding Officer

Appearances:

For the Employers : None

For the workman. : None

State : Jharkhand. Industry- P&T

Dated: 23/10/ 2017

AWARD

By order No. L-20012/83/1996-IR(DU) dated 02/03/1998 the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub –section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Postal Department in terminating and not- regularizing the services of Sh. Ramesh Prasad Verma is legal and justified? If not, to what relief the workman is entitled to?

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 20 नवम्बर, 2017

का.आ. 2712.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उप निदेशक, भारतीय पुरातत्व सर्वेक्षण, वडोदरा (गुजरात) एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 01/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25.10.2017 को प्राप्त हुआ था।

[सं. एल-42011/124/2012-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 20th November, 2017

S.O. 2712.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 01/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the employers in relation to the Deputy Director, Archaeological Survey of India, Vadodara (Gujarat) and their workman, which was received by the Central Government on 25.10.2017.

[No. L-42011/124/2012-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer,

CGIT-cum-Labour Court, Ahmedabad,

Dated 28th September, 2017

Reference: (CGITA) No. 01/2013

The Dy. Director,
Archaeological Survey of India,
Vadodara Zone,
Vadodara (Gujarat) …First Party

V/s

The National Working President,
Akhil Bhartiya Safai Mazdoor Sangh,
A-157, Shakti Nagar,
Kutch, Gandhidham (Gujarat) – 370201 …Second Party

For the First Party : None

For the Second Party : Shri L. M. Patil

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-42011/124/2012-IR(DU) dated 18.12.2012 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the action of the management of Archaeological Survey of India in not giving the status of temporary status to S/Shri Jaymal R. Makwana, Shivubha Sodha and Ravji Solanki, who are working as Watchmen-cum-Peons, w.e.f. 01.01.1990, 05.01.1990 and 03.02.1990 respectively is legal and justified? If not, what relief these three employees are entitled to?"

1. The reference dates back to 18.12.2012. The second party submitted the statement of claim Ex. 4 on 20.05.2013 along with number of documents vide list Ex. 8 alleging that he was initially appointed as Watchmen-cum-Peon on 01.01.1990 by the first party The Dy. Director, Archaeological Survey of India, Vadodara Zone, Vadodara on a permanent vacant post. Similarly, Shivubha Sodha and Ravji Solanki were appointed as Watchmen-cum-Peon on 05.01.1990 and 03.02.1990 respectively by the aforesaid first party. Since then these workmen have been working continuously. The first party issued advertisements for filling up these posts for number of time but did not succeed to recruit any regular employee. It is further alleged that despite the aforesaid fact, the first party had not been regularising them as a permanent employee on the aforesaid vacant post. Thus they have prayed for regularisation of their services as Watchmen-cum-Peon w.e.f. the date as said earlier.

2. The first party was served vide notice Ex. 2 to appear on 20.05.2013, the acknowledgement of said notice was received. Thus the first party is deemed served. Despite waiting for the written statement of the first party for dozens of dates, the tribunal on 06.10.2016 ordered to proceed ex-parte against the first party.

3. Even after waiting for 4 more dates, the first party did not appear. The workmen namely Jaymal R. Makwana and Ravji Solanki submitted their affidavit Ex. 9 and 10 and reiterated the averments made in the statement of claim.

4. Thus the aforesaid affidavits are unrebutted.

5. Therefore, the reference is disposed of with the observation as under: "the action of the management of Archaeological Survey of India in not giving the status of temporary status to S/Shri Jaymal R. Makwana, Shivubha Sodha and Ravji Solanki, who are working as Watchmen-cum-Peons, w.e.f. 01.01.1990, 05.01.1990 and 03.02.1990 respectively is not legal and justified."

6. The first party The Dy. Director, Archaeological Survey of India, Vadodara Zone, Vadodara is directed to regularise the services of the aforesaid workmen as Watchmen-cum-Peon within 60 days from the date of the publication of this award with no arrear of wages.

7. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 20 नवम्बर, 2017

का.आ. 2713.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, महाप्रबंधक, दूरसंचार विभाग, बीएसएनएल, नाडियाड (गुजरात) एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 10/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25.10.2017 को प्राप्त हुआ था।

[सं. एल-40011/35/2009-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 20th November, 2017

S.O. 2713.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 10/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the employers in relation to the General Manager, Telecom Department, BSNL, Nadiad (Gujarat) and their workmen, which was received by the Central Government on 25.10.2017.

[No. L-40011/35/2009-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer,
CGIT-cum-Labour Court, Ahmedabad,
Dated 29th September, 2017

Reference: (CGITA) No. 10/2010

The General Manager,
Telecom District,
Bharat Sanchar Nigam Limited,
Door Sanchar Bhawan, Vallabh Nagar,
Nadiad (Gujarat) – 387002 …First Party

V/s

The President,
General Workmen's Union,
Sinduri Mata Devasthan,
Panchmahal (Gujarat) – 389001 …Second Party

For the First Party : Shri N.K. Trivedi

For the Second Party : Shri J. K. Ved (Union Representative)

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-40011/35/2009-IR(DU) dated 31.03.2010 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the demand of General Workmen's Union for regularisation of services of Shri Udesinh F. Patel by the management of Bharat Sanchar Nigam Limited, Nadiad is legal and justified? If yes, what relief the workman is entitled to?"

1. The reference dates back to 31.03.2010. Both the parties submitted their statement of claim Ex. 5 and written statement Ex. 7 respectively long back ago.

2. Today on 29.09.2017, Shri J.K. Ved, The President, General Workmen's Union, on behalf of Union, submitted in writing that the union wanted to withdraw the case.

3. Thus the reference is finally disposed of as withdrawn.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 20 नवम्बर, 2017

का.आ. 2714.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, महाप्रबंधक, दूरसंचार विभाग, बीएसएनएल, भावनगर (गुजरात) और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 75/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25.10.2017 को प्राप्त हुआ था।

[सं. एल-40012/404/2001-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 20th November, 2017

S.O. 2714.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 75/2006) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the employers in relation to the General Manager, Telecom Department, BSNL, Bhavnagar (Gujarat) and others and their workmen, which was received by the Central Government on 25.10.2017.

[No. L-40012/404/2001-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer,
CGIT-cum-Labour Court, Ahmedabad,
Dated 04th October, 2017

Reference: (CGITA) No. 75/2006

1. The General Manager,
   Telecom District, BSNL,
   Panwadi, Bhavnagar (Gujarat)

2. The Sub Divisional Officer,
   BSNL, Ghogha Road, Bhavnagar (Gujarat) …First Party

V/s

The President,
Shramik Sangh,
Kaveri Corporation,
Navapara,
Bhavnagar (Gujarat) …Second Party

For the First Party : Shri H.R. Raval
For the Second Party : Shri N.H. Rathod

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-40012/404/2001-IR(DU) dated 03.02.2006 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the industrial dispute raised by the President, Shramik Sangh, Bhavnagar against the management of General Manager, Telecom District, Bhavnagar and others over alleged illegal termination of services of 69 workmen is justified? If so, what relief the workmen are entitled to?"

1. The reference dates back to 03.02.2006.The second party workman has not filed the statement of claim despite giving dozens of opportunities. The first party has moved an application Ex. 6 regarding the maintainability of the reference and not having jurisdiction of the tribunal in the matter. The second party advocate Shri N.H. Rathod did not submit any reply to the aforesaid application Ex. 6.

2. Thus the application Ex. 6 is allowed and the reference is disposed of with the observation that this tribunal has no jurisdiction over the matter.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 20 नवम्बर, 2017

का.आ. 2715.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक (कानूनी) दूरसंचार विभाग, बीएसएनएल, सुरेंद्रनगर (गुजरात) और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 194/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.10.2017 को प्राप्त हुआ था।

[सं. एल-40012/81/2006-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 20th November, 2017

S.O. 2715.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 194/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the employers in relation to the Assistant General Manager (Legal), Telecom Department, BSNL, Surendranagar (Gujarat) and their workman, which was received by the Central Government on 26.10.2017.

[No. L-40012/81/2006-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer,
CGIT-cum-Labour Court, Ahmedabad,
Dated 06th October, 2017

Reference: (CGITA) No. 194/2006

The Assistant General Manager (Legal),
Telecom Department, BSNL,
Office of the GMTD,
Surendranagar (Gujarat) …First Party

V/s

The President,
Association of Post and Railway Employees,
15, Shashi Flats, Near Swaminarayan Chowk,
Jawaharnagar, Vasna Road,
Ahmedabad (Gujarat) – 380007 …Second Party

For the First Party : Shri H.R. Raval

For the Second Party : Shri Chintan Gohel

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-40012/81/2006-IR(DU) dated 28.11.2006 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the action of the management of Sub-Divisional Engineer, BSNL, Surendranagar and General Manager, Telecom Deptt., BSNL, Ahmedabad in terminating the services of their work-woman Smt. Mehrunisha Davaimiya w.e.f. 26.04.2003 is legal and justified? If not, to what relief the workman is entitled to?"

1. The reference dates back to 28.11.2006. The second party submitted the statement of claim Ex. 7 on 26.09.2008 and the first party submitted the written statement Ex. 9 on 26.09.2008. Thereafter, the second party moved an application for production of documents on 12.03.2009, same was allowed on 19.12.2016 but the first party failed to submit the documents as demanded by the second party work-woman. Today on 06.10.2017, the second party work-woman's advocate Shri Chintan Gohel stated that the second party work-woman has not been in his contact to lead evidence.

2. Thus it appears that the second party work-woman is not willing to prosecute the case.

3. Therefore, the reference is disposed of in the absence of the evidence of the second party work-woman with the observation as under: "the action of the management of Sub-Divisional Engineer, BSNL, Surendranagar and General Manager, Telecom Deptt., BSNL, Ahmedabad in terminating the services of their work-woman Smt. Mehrunisha Davaimiya w.e.f. 26.04.2003 is legal and justified."

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 20 नवम्बर, 2017

का.आ. 2716.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कमांडिंग ऑफिसर, स्टेशन हेड क्वार्टर, जामनगर (गुजरात) एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 402/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.10.2017 को प्राप्त हुआ था।

[सं. एल-42025/03/2017-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 20th November, 2017

S.O. 2716.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 402/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the employers in relation to the Commanding Officer, Station Head Quarter, Jamnagar (Gujarat) and their workman, which was received by the Central Government on 26.10.2017.

[No. L-42025/03/2017-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer,
CGIT-cum-Labour Court, Ahmedabad,
Dated 05th October, 2017

Recovery : (CGITA) No. 402/2004

Shri Nakum Dayal Jairam
C/o BhartiyaMazdoorSangh,
17, Abhay Shopping Centre,
Opp. D.S.P. Bunglow,
Jamnagar (Gujarat) …Applicant

V/s

The Commanding Officer,
Station Head Quarter,
Infantry Line,
Army, Pavanchakki Road,
Jamnagar (Gujarat) …Opponent

For the Applicant : Shri Rajesh Singh and Shri LalitPatil

For the Opponent : Shri N.V. Dixit

AWARD

1. This is a recovery application Ex. 1 moved under Section 33 (c)(2) of Industrial Disputes Act, 1947 alleging that the workman namely Nakum Dayal Jairam has been working in the service of the opposite party since last 22 years but he has not been paid, despite demand, the amount of Rs. 27385/- and Rs. 500/- as legal expenses along with 6% interest per annum.

2. The opposite party was issued notice on 29.07.2010 to appear and file reply on 06.09.2010. In response to the aforesaid notice, The Commanding Officer of the Jamnagar, Station Head Quarter sent a reply Ex. 5 dated 21.10.2010 requesting for time. Thereafter, a fresh letter Ex. 6 was forwarded to the tribunal requesting for some more time. On 02.06.2011, the opposite party submitted the vakalatpatra Ex. 7 of his advocate namely Shri N.V. Dixit and Shri Dixit moved applications Ex. 8, 9 and 10 on 02.06.2011, 29.08.2011 and 20.09.2011 respectively for seeking some more time; same was granted but he did not file the reply. Therefore, the applicant requested for closure of defence of the opposite party. On 20.09.2011, one more opportunity was granted to file the reply by the opposite party. Thereafter, the applicant submitted the affidavit Ex. 11 in support of the application Ex. 1 and the opposite party did not appear to cross-examine the applicant. Thus the case was ordered to proceed ex-parte against the opposite party. The applicant, in his affidavit, has reiterated the averments made in the application. The affidavit is unrebutted as the opposite party did not appear for a long time to cross-examine the applicant.

3. Thus the application Ex. 1 is allowed. The opposite party is directed to pay the aforesaid amount of Rs. 27385/- within 60 days from the publication of this award.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 20 नवम्बर, 2017

का.आ. 2717.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, दूरसंचार विभाग, राजकोट (गुजरात) और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के

बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 624/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.10.2017 को प्राप्त हुआ था।

[सं. एल-40012/202/93-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 20th November, 2017

S.O. 2717.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 624/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the employers in relation to the General Manager, Department of Telecom, Rajkot (Gujarat) and others and their workman, which was received by the Central Government on 26.10.2017.

[No. L-40012/202/93-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer,
CGIT-cum-Labour Court, Ahmedabad,
Dated 06th October, 2017

Reference: (CGITA) No. 624/2004

1. The General Manager,
Deptt. of Telecom,
Amruta Estate, Behind Girnar Cinema,
Rajkot (Gujarat) - 360001

2. The Asstt. Engineer (Cable),
Deptt. of Telecom,
Rajkot (Gujarat) – 360001 …First Party

V/s

The President,
Saurashtra Employees' Union,
Umesh Commercial Complex,
213/214, Near Chaudhary High School,
Rajkot (Gujarat)

…Second Party

For the First Party : Shri H.R. Raval
For the Second Party : Adv. K.L. Kalwani

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-40012/202/93-IR(DU) dated 05.04.1995 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the action of the management of Assistant Engineer (Cable), Telecom Department, Rajkot in terminating the services of Shri Ajit Singh Anandubha, Ex-casual labour is legal and justified? If not, to what relief the workman is entitled to?"

1. The reference dates back to 05.04.1995. After submitting the statement of claim and written statement by the respective parties and leading evidence by them, the advocate K.L. Kalwani of the second party workman submitted in writing that the workman has expired and neither of his legal heirs has turned up to approach her to prosecute the case. Thus she has not pressed the case.

2. The reference is finally disposed of as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 20 नवम्बर, 2017

का.आ. 2718.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कमांडिंग ऑफिसर, स्टेशन हेड क्वार्टर, जामनगर (गुजरात) एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 626/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.10.2017 को प्राप्त हुआ था।

[सं. एल-42025/03/2017-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 20th November, 2017

S.O. 2718.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 626/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the employers in relation to the Commanding Officer, Station Head Quarter, Jamnagar (Gujarat) and their workman, which was received by the Central Government on 26.10.2017.

[No. L-42025/03/2017-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer,
CGIT-cum-Labour Court, Ahmedabad,
Dated 05th October, 2017

Recovery : (CGITA) No. 626/2004

Shri NakumDayal Jairam
C/o Bhartiya Mazdoor Sangh,
17, Abhay Shopping Centre,
Opp. D.S.P. Bunglow,
Jamnagar (Gujarat) …Applicant

V/s

The Commanding Officer,
Station Head Quarter,
Infantry Line,
Army, Pavanchakki Road,
Jamnagar (Gujarat) …Opponent

For the Applicant : Shri Rajesh Singh and Shri LalitPatil

For the Opponent : Shri N.V. Dixit

AWARD

1. This is a recovery application Ex. 1 moved under Section 33 (c)(2) of Industrial Disputes Act, 1947 alleging that the workman namely Nakum Dayal Jairam has been working in the service of the opposite party since last 22 years but he has not been paid, despite demand, the amount of Rs. 7510/- and Rs. 500/- as legal expenses along with 6% interest per annum.

2. The opposite party submitted a letter Ex. 5 on 20.01.1993 stating that the application is not true, correct and bonafide and liable to be rejected on the ground that there were no industrial workers authorised/employed in the Station Head Quarter, Jamnagar. The Army Head Quarter only authorise Safaiwala/Maid being non-industrial workers. The civilians are employed as a conservancy Safaiwala who do not fall under the perview of Industrial Dispute Act, 1947 and they are not entitled to move the tribunal under the payment of wages act. The applicant Nakum Dayal Jairam was paid Rs. 1382/- as wages from 01.11.1991 to 30.11.1991 and he put his signatures on the vouchers. It has been further stated that pay and allowances for the month of December, 1991 was claimed along with other civilian staff as per attendance report received from Air Defence Regiment vide letter dated 27.11.1991. Similarly Kanli Lal was paid all the wages. Thereafter the opposite party stopped attending the tribunal. Therefore, on 26.08.2011, notice Ex. 12 was

sent to both the parties. In response to the notice, the Colonel/Administrative Commandant, Station Head Quarter, Jamnagar submitted vakalatpatra Ex. 14 on 18.07.2011. The advocate Shri N.V. Dixit from the opposite party on 18.07.2011 moved an application for seeking time to file the reply but he did not file the reply. Therefore, the case was ordered to proceed ex-parte against the opposite party.

3. The applicant submitted his affidavit Ex. 16, 17, 18 and 19 reiterating the averments made in the application Ex. 1.

4. Thus the application Ex. 1 is allowed. The opposite party is directed to pay the aforesaid amount of Rs. 2800/- to workman Nukum Dayal Jairam, Rs. 1700/- to Kantilal Ukabhai and Rs. 2510/- to Babu Chhagan within 60 days from the publication of this award.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 20 नवम्बर, 2017

का.आ. 2719.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कमांडिंग ऑफिसर, स्टेशन हेड क्वार्टर, जामनगर (गुजरात) एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 627/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.10.2017 को प्राप्त हुआ था।

[सं. एल-42025/03/2017-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 20th November, 2017

S.O. 2719.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 627/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the employers in relation to the Commanding Officer, Station Head Quarter, Jamnagar (Gujarat) and their workman, which was received by the Central Government on 26.10.2017.

[No. L-42025/03/2017-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer,
CGIT-cum-Labour Court, Ahmedabad,
Dated 05th October, 2017

Recovery : (CGITA) No. 627/2004

Shri Nakum Dayal Jairam
C/o Bhartiya Mazdoor Sangh,
17, Abhay Shopping Centre,
Opp. D.S.P. Bunglow,
Jamnagar (Gujarat) … Applicant

V/s

The Commanding Officer,
Station Head Quarter,
Infantry Line,
Army, Pavanchakki Road,
Jamnagar (Gujarat) …Opponent

For the Applicant : Shri Rajesh Singh and Shri LalitPatil

For the Opponent : Shri N.V. Dixit

AWARD

1. This is a recovery application Ex. 1 moved under Section 33 (c)(2) of Industrial Disputes Act, 1947 alleging that the workman namely Nakum Dayal Jairam has been working in the service of the opposite party since last 22 years but he has not been paid, despite demand, the amount of Rs. 7510/- and Rs. 500/- as legal expenses along with 6% interest per annum.

2. The opposite party submitted a letter Ex. 5 on 20.01.1993 stating that the application is not true, correct and bonafide and liable to be rejected on the ground that there were no industrial workers authorised/employed in the Station Head Quarter, Jamnagar. The Army Head Quarter only authorise Safaiwala/Maid being non-industrial workers. The civilians are employed as a conservancy Safaiwala who do not fall under the perview of Industrial Dispute Act, 1947 and they are not entitled to move the tribunal under the payment of wages act. The applicant NakumDayalJairam was paid Rs. 1382/- as wages from 01.11.1991 to 30.11.1991 and he put his signatures on the vouchers. It has been further stated that pay and allowances for the month of December, 1991 was claimed along with other civilian staff as per attendance report received from Air Defence Regiment vide letter dated 27.11.1991. Similarly Kanli Lal was paid all the wages. Thereafter the opposite party stopped attending the tribunal. Therefore, on 26.08.2011, notice Ex. 12 was sent to both the parties. In response to the notice, the Colonel/Administrative Commandant, Station Head Quarter, Jamnagar submitted vakalatpatra Ex. 14 on 18.07.2011. The advocate Shri N.V. Dixit from the opposite party on 18.07.2011 moved an application for seeking time to file the reply but he did not file the reply. Therefore, the case was ordered to proceed ex-parte against the opposite party.

3. The applicant submitted his affidavit Ex. 16, 17, 18 and 19 reiterating the averments made in the application Ex. 1.

4. Thus the application Ex. 1 is allowed. The opposite party is directed to pay the aforesaid amount of Rs. 2800/- to workman Nukum Dayal Jairam, Rs. 1700/- to Kantilal Ukabhai and Rs. 2510/- to Babu Chhagan within 60 days from the publication of this award.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 20 नवम्बर, 2017

का.आ. 2720.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उप-विभागीय अधिकारी (टेलीग्राफ), बीएसएनएल, अमरेली (गुजरात) और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 888/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25.10.2017 को प्राप्त हुआ था।

[सं. एल-40012/230/2001-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 20th November, 2017

S.O. 2720.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 888/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the employers in relation to the Sub-Divisional Officer (Telegraph), BSNL, Amreli (Gujarat) and others and their workman, which was received by the Central Government on 25.10.2017.

[No. L-40012/230/2001-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer,
CGIT-cum-Labour Court, Ahmedabad,
Dated 04th October, 2017

Reference: (CGITA) No. 888/2004

1. The Sub-Divisional Officer (Telegraph),
BSNL, Telephone Exchange,
Amreli (Gujarat)

2. The General Manager,
Telecom District,
Telecom Department, Junagadh District,
Junagadh (Gujarat) – 362001 …First Party

V/s

The Org. Secretary,
The Association of Railway and Post Employees,
15, Shashi Apartment,
Nr. Anjalee Cinema, Vasna Road,
Ahmedabad (Gujarat) – 380007 …Second Party

For the First Party : Shri H.R. Raval
For the Second Party : Shri R.C. Pathak

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-40012/230/2001-IR(DU) dated 08.05.2002 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the action of the management of Bharat Sanchar Nigam Limited (Telecom Department) in terminating the services of Shri Raghuram Vallabhdas Nimavat is legal, proper and justified? If not, to what relief the concerned workman is entitled to and what other directions are necessary in the matter?"

1. The reference dates back to 08.05.2002. Both the parties submitted their statement of claim on 12.03.2003 and written statement on 17.03.2003 respectively. The case was listed for evidence of the second party. But since then the parties have not been leading their evidence. Shri Chintan Goyal, advocate for the second party states that the workman has not been in his contact. Thus it appears that the second party workman does not want to prosecute the case.

2. The reference is disposed of as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 20 नवम्बर, 2017

का.आ. 2721.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सीनियर पोस्ट मास्टर, हेड पोस्ट ऑफिस, राजकोट (गुजरात) एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 975/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.10.2017 को प्राप्त हुआ था।

[सं. एल-40012/84/94-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 20th November, 2017

S.O. 2721.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 975/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the employers in relation to the Senior Post master, Head Post Office, Rajkot (Gujarat) and their workman, which was received by the Central Government on 26.10.2017.

[No. L-40012/84/94-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer,
CGIT-cum-Labour Court, Ahmedabad,
Dated 06th October, 2017

Reference: (CGITA) No. 975/2004

The Senior Post Master,
Head Post Office,
Rajkot (Gujarat) – 360001 …First Party

V/s

Shri Harun H. Saiyad,
C/o BhartiyaMazdoorSangh,
Div Chamber,
Dhebar Road,
Rajkot (Gujarat) – 360001 …Second Party

For the First Party : Shri P.M. Rami

For the Second Party : Shri A.B. Gogia

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-40012/84/94-IR(DU) dated 13.10.1994 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the action of the Senior Post Master, Head Post Office, Rajkot in terminating the services of Shri Harun H. Saiyad, Badli Postman under Sr. Post Master, Head Post Office, Rajkot is legal, proper and justified? If not, to what relief the workman concerned is entitled?"

1. The reference dates back to 13.10.1994. The second party workman submitted the statement of claim Ex. 2 alleging that he was engaged as an outsider postman on 17.10.1988 by the first parties Post Master General, General Post Office, Rajkot and the General Post Master, Head Post Office, Rajkot and was permitted to continue in the employment up to 06.10.1990 by serving him a written termination order. While terminating his service, he was issued a certificate of working days detailed as under and same has been enclosed with the statement of claim:

Worked from	Worked up to	Total days worked	Worked under
17.10.1998	22.10.1998	6	Senior Post Master Rajkot vide Memo No. 132/Mails/88
01.02.1989	29.04.1989	62	--------do---------
01.05.1989	31.07.1989	`63	--------do---------
02.08.1989	21.10.1989	55	--------do---------
09.11.1989	30.12.1989	34	--------do---------
01.01.1990	31.03.1990	71	--------do---------
02.04.1990	25.06.1990	60	--------do---------
05.07.1990	06.10.1990	50	--------do---------
Total Working Days		401 Days	

2. The workman expired after leading evidence, therefore, in his place, his legal heir Chandhu (widow), Mahak and Heena (unmarried minor daughters) were substituted as legal heirs of the deceased workman.

3. It has been further alleged in the statement of claim that he had worked for 401 days and worked for more than 240 days in the last preceding year. Therefore, his services could not be terminated in the manner as it has been done by way of oral order without serving any notice or paying retrenchment compensation as per the provisions of Section 25 F of the I.D. Act. In his case, the provisions of Section 25 F of the I.D. Act were pre-conditions in his service conditions. He approached the officers of the first party for number of times to permit him to join service including by way of written representation dated 03.03.1991 but to no result. He has further alleged that the termination of his

service being violative of Section 25 F of the I.D. Act was null and void, therefore, he approached the Labour Enforcement Officer, Rajkot on 30.03.1991 where the matter could not be resolved; therefore, this reference is moved. Thus he has prayed by way of statement of claim for reinstatement with back wages.

4. The first party submitted the written statement Ex. 9 submitting that the averments made in the statement of claim are false, null and malafide and barred by limitations and the tribunal has no jurisdiction to entertain the matter as Supreme Court in its judgement in SLP (C) No. 17577/1995 (SCA No. 3305/1986), has declared the Department of Post as not an industry. The workman did not serve the department for a minimum period. The workman also moved a petition OA No. 251/1994 on 19.07.1994 in Central Administrative Tribunal which he withdrew as not pressed.

5. The first party has also submitted that it is false to say that the junior employees to the workman were permitted to continue in the service at the time of termination of his service. The workman has not detailed the name of any employee who would have been permitted to continue in service. The truth is that this workman was engaged as a substitute in place of a regular postman who was granted leave and proceeded on leave. Thus the engagement of this workman was time bound and cessation of his service after joining the service by the regular employee, who proceeded on leave, cannot be said to be illegal or unjustified.

6. After perusal of the pleadings from both the parties, the following issues arise:

i. Whether the action of the Senior Post Master, Head Post Office, Rajkot in terminating the services of Shri Harun H. Saiyad, Badli Postman under Sr. Post Master, Head Post Office, Rajkot is legal, proper and justified?

ii. If not, to what relief, if any, the workman concerned is entitled?

7. Issue No (i): The burden to prove this issue was on the workman who in his examination in chief reiterated the averments made in the statement of claim and has not said anything contrary to his examination in chief in his cross-examination but he has stated in his statement of claim Ex. 2 that he worked for 401 days from 17.10.1988 to 05.07.1990 in Para 1 of his statement of claim along with Mark 1 to the statement of claim which may be deciphered in detailed as under:

Worked from	Worked up to	Total days worked	Worked under
17.10.1998	22.10.1998	6	Senior Post Master Rajkot vide Memo No. 132/Mails/88
01.02.1989	29.04.1989	62	--------do---------
01.05.1989	31.07.1989	`63	--------do---------
02.08.1989	21.10.1989	55	--------do---------
09.11.1989	30.12.1989	34	--------do---------
01.01.1990	31.03.1990	71	--------do---------
02.04.1990	25.06.1990	60	--------do---------
05.07.1990	06.10.1990	50	--------do---------
Total Working Days		401 Days	

The aforesaid does not establish that he ever worked for more than 240 days in the preceding year from the date of his termination which he has stated in his statement of claim and examination in chief as well. He has not also explained who were those employees junior to him and retained at the time of his termination from service.

8. The first party witness M.K. Parmar, Assistant Superintendent of Post Office, Rajkot in his examination in chief, has stated on oath that this workman was engaged in a leave vacancy for a specific period. He worked in the year 1988, 1989 and 1991. He never worked for 240 days in any year of his contracted employment. He was not recruited through service rules. He was engaged in a leave vacancy and he was also issued a certificate of engagement.

9. The advocate for the workman submitted the written argument submitting that he worked for more than 240 days in the preceding year and junior employee namely Halvadia and Pandya were engaged after 2-3 months of his appointment, thereafter, new person Hadvati, Khachar and Bhattbhai were appointed after his engagement and all the aforesaid persons are still working and the second argument is that the workman was a regular employee, thus covered under the provisions of Section 2 (s) of the I.D. Act, therefore, his termination is violative of the provisions of Section

25 F, G & H of the I.D. Act. To substantiate her argument, she referred the judgement General Manager Telecom V/s S.S. Shreeniwas Rao 1997 CJ (SC) 466 wherein the Supreme Court has held that the Telecommunication Department is engaged in commercial activity and has not been discharging any sovereign function, therefore, it is an industry as per amended Section 2 (j) of the I.D. Act.

10. She has further referred workman of AEIV Corporation V/s Management, AEIV Corporation 1985 CJ (SC) 374. The main argument of the workman's advocate was that the first party establishment did not include the public holiday while counting the actual working days. The Apex Court has answered the question whether Sunday and other paid holidays should be taken into account for the purpose of reckoning the total number of days on which the workman could be said to have actually worked in the affirmative.

11. She has further referred Executive Engineer V/s Harisingh Modhbhai Gadhvi 2007 CJ Gujarat 624 but this judgement has no applicability in this case as it is on the point of determination of 240 working days because the workman has not explained in his statement which holidays were not counted while computing his working days.

12. This is an admitted fact that this workman was engaged in a leave vacancy of one L.N. Joshi for the period from 17.10.1988 to 22.10.1988 or any early date of reporting by L.N. Joshi. This document Ex. 27 has been filed by the workman who has been admitted by the first party. Thus the workman cannot argue or submit that he was a regular employee. He was a contracted employee for a specific period. He has not explained or filed any document which may establish that he was a regular employee. He has also not explained by way of giving oral or documentary evidence who were those persons or employees junior to him and also in his category of employee was retained in the employment.

13. The advocate for the first party argued that this workman was a contract employee, therefore, under the provisions of the Section 2 (oo) and (bb), therefore, his cessation cannot be said to be a retrenchment and therefore, the violation of Section 25 F, G & H is not made out. The provisions of the Section 2 (oo) and (bb) are reproduced as under:

[(oo) "Retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include –

(a) Voluntary retirement of the workman; or

(b) Retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned a stipulation in that behalf; or

(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or

(c) Termination of the service of a workman on the ground of continued ill-health;]

14. It is true that this workman was initially appointed as a contract employee from 17.10.1988 to 22.10.1988. The copy of the muster roll submitted by the workman and admitted by the first party discloses that he worked from 17.10.1988 to 06.10.1990 and the first party has not explained as to under what capacity or circumstances, his services were extended till 06.10.1990 or till the date of termination of his service. Failure of the first party to submit the renewed contract after 22.10.1988 creates a doubt that he was not engaged on casual basis but as the workman has already expired and the reference has been contested by his legal heirs and termination without notice and paying retrenchment pay is definitely violative of Section 25 F, G & H of the I.D. Act. Therefore, a fixed amount of compensation of Rs. 30000/- would serve the purpose of justice.

15. The reference is disposed of accordingly. The award is also passed accordingly with a direction to the first party to pay Rs. 30000/- to the legal heirs of the workman within 60 days from the publication of this award.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 20 नवम्बर, 2017

का.आ. 2722.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उप-विभागीय अधिकारी/टेलीग्राफ, जामनगर (गुजरात) एवं उनके कर्मचारी और अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 1046/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.10.2017 को प्राप्त हुआ था।

[सं. एल-40012/160/94-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 20th November, 2017

S.O. 2722.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1046/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the employers in relation to the Sub-Divisional Officer/Telegraphs, Jamnagar (Gujarat) and their workman, & others which was received by the Central Government on 26.10.2017.

[No. L-40012/160/94-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer,
CGIT-cum-Labour Court, Ahmedabad,
Dated 06th October, 2017

Reference: (CGITA) No. 1046/2004

The Sub-Divisional Officer/Telegraphs,
Telephone Exchange Branch,
Manmohan Market,
Jamnagar (Gujarat) …First Party

V/s

1. Shri Brajendra Kumar Pal,
   C/o Shri Brijrajaingh Pal,
   Jayprakashnagar, Nhagwatipara Main Road,
   Rajkot

2. The President,
   Saurashtra Employees' Union,
   Umesh Commercial Complex,
   213/214, Near Chaudhary High School,
   Rajkot (Gujarat) … Second Party

For the First Party : Shri H.R. Raval

For the Second Party : Adv. K.L. Kalwani

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-40012/160/94-IR(DU) dated 14.03.1997 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the action of the management of SDO/Telegraphs, Jamnagar in terminating the services of Shri Brejendra Kumar Pal, Labourer is legal and justified? If not, to what relief the workman is entitled to?"

1. The reference dates back to 14.03.1997. After submitting the statement of claim and written statement by the respective parties, the advocate K.L. Kalwani of the second party workman submitted in writing that the workman has expired and neither of his legal heirs has turned up to approach her to prosecute the case. Thus she has not pressed the case.

2. The reference is finally disposed of as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 20 नवम्बर, 2017

का.आ. 2723.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक (पी), एमटीएनएल, मुंबई एवं उनके कर्मचारी और अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट

औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. II, मुंबई के पंचाट (संदर्भ संख्या 154/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31.10.2017 को प्राप्त हुआ था।

[सं. एल-40011/11/1998-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 20th November, 2017

S.O. 2723.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 154/1998) of the Central Government Industrial Tribunal/Labour Court No. II, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the General manager (P), MTNL, Mumbai and their workman, which was received by the Central Government on 31.10.2017.

[No. L-40011/11/1998-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT: M. V. Deshpande**,** Presiding Officer

REFERENCE NO. CGIT-2/154 of 1998

EMPLOYERS IN RELATION TO THE MANAGEMENT OF MAHANAGAR TELEPHONE NIGAM LTD

The Gen. Manager (P),
Mahanagar Telephone Nigam Ltd.,
Saawla Chambers, 40, C.P. Street,
Fort, Mumbai – 400 001.
AND

THEIR WORKMEN

The General Secretary,
Bombay Telephone Canteen Emp. Assn.,
C/o. Prabhadevi Telephone Exchange
Canteen, I Floor, Dadar [W],
Mumbai – 400 028.

APPEARANCES:

FOR THE EMPLOYER : Mr. V. Narayanan, Advocate

FOR THE WORKMEN : Mr. M. B. Anchan, Advocate

Mumbai, dated the 22nd August, 2017

AWARD

1. This is reference made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide Government of India, Ministry of Labour & Employment, New Delhi vide its order No. L-40011/11/98/IR (DU) dated 30.11.1998. The terms of reference given in the schedule are as follows :

> "Whether the demand of regularization in services of Shri Narayan M. Sanil & Shri Harish N. Poojary, Wash Boys is legal and justified ? If not, to what relief the workmen are entitled ?"

2. After the receipt of the reference, both the parties were served with the notices. They appeared through their respective representatives.

3. The General Secretary, Bombay Telephone Canteen Emp. Assn. filed statement of claim Ex.3. Association pleaded that the concerned workmen in the above reference joined the services of the departmental canteen of Mahanagar Telephone Nigam Ltd., Saawla Chambers as Wash Boys. Shri Narayan M. Sanil joined the services in January 1981 & Shri Harish N. Poojary joined services in January 1986. Since then they were continuously working without any break in service. They were working against the regular vacancies. Even though they were regularly working since 1981 and 1986 respectively. They were not regularized in services. They made several representations orally and in writing but nothing was heard from MTNL.

4. The association pleaded that after judgment of the Hon'ble Supreme Court most of the canteen workers became departmental workers from 1.10.1991. Even though the concerned workmen were there as on 19.10.1991.

Their services were not departmentalized and as such they were paid meager amount of wages. They were also not given the benefits of 3rd and 4th Pay Commission recommendations. As such the association submitted demand on 23.9.1996 to the General Manager [South], MTNL for regularizing the workmen and for the benefits of the recommendations of 3rd and 4th Pay Commission. Since there was no reply from the MTNL, vide its letter dated 24.7.1997 association approached RLC [C], Mumbai and raised the dispute. Since there was no settlement before the conciliation officer, government referred the dispute to this tribunal for adjudication. It is asserted that under such circumstances they are entitled to regularization after 120 days of their continuous working since from 1.5.1982 and 1.5.86 respectively. After regularization they are also entitled to the benefits of recommendations of 3rd and 4th Pay Commission. They prayed that as they are in continuous service they are entitled to regularization in services.

5. Initially the management remained absent though duly served. They did not file any written statement. In view of that Award Ex.9 came to be passed and the demand of regularization in services of the concerned workmen is held legal and justified and management is directed to regularize their services. However, thereafter the reference is restored as per order passed in Misc. application CGIT No.2/1/2000

6. Thereafter the management resisted the claim by filing written statement Ex.13. It is averted that the concerned workmen were engaged by departmental canteen committee as wash boys on daily wages and hence question of regularizing the services of daily wages employees in the departmental canteen of MTNL does not arise. It is contended that the concerned workmen were engaged by the departmental canteen committee of Saawla Chambers, MTNL, Mumbai. Complying with the procedure prescribed under the rules requires the engagement on the basis of sponsorship of employment exchange and provides other clarifications of being engaged as a wash boys as mentioned in the rules. The concerned workmen are not entitled to the benefits of the recommendations of 3rd and 4th Pay Commission or to regularization. The concerned workmen were not engaged pursuant to any work order for engagement issue by any of the authorities either competent or otherwise by MTNL. Their names were also not mentioned in the muster roll and pay roll. Hence the workmen are not entitled to regularization and the reference is liable to be rejected.

7. It is denied by the MTNL that the concerned workmen were working against regular vacancies and they became departmental workers w.e.f. 1.10.1991 or otherwise as per judgment of Hon'ble Supreme Court. It is also denied that they have been working continuously since 1981 and 1986. The MTNL has thus sought the rejection of reference with costs.

8. The concerned workmen have filed rejoinder vide Ex.14 contending therein that they were not appointed by the departmental canteen committee but they were appointed by MTNL and therefore the Hon'ble Supreme Court's decision is applicable to the facts of the present case. It is their contention that the MTNL is an industry and therefore the canteen employees who were appointed by MTNL are industrial employees of MTNL. They are not working in central government office canteen. They are also not holding civil post. MTNL is also not department of central government or state government nor it is a private limited company. It is thus contended that this tribunal has jurisdiction to entertain the reference.

9. The association also submitted that similarly placed workmen like they were regularized in service from 1.10.1991 after the Hon'ble Supreme Court decision. In their cases also there were no appointment letters. They were not engaged through employment exchange. They were regularized in service. They were also given benefits of recommendations of 3rd and 4th Pay Commission and therefore concerned workmen are also entitled for regularization.

10. Following issues are framed at Ex.4. I reproduce the issues along with my findings thereon for the reasons to follow:

Sr. No.	Issues	Findings
1	Whether the demand of regularization in service of Shri Narayan M. Sanil & Shri Harish N. Poojary, Wash Boys is legal and justified ?	Yes
2.	If not, to what relief the workmen are entitled to ?	As per final order

Sr. No.	Additional Issues	Findings
1A.	Whether the management of MTNL is an industry within the definition of section 2(j) of the Industrial Disputes Act ?	Yes
2A.	If not, whether this tribunal has jurisdiction ?	Yes

Reasons :

Additional Issues No.1A & 2A.

11. It is urged by the Learned Counsel for the MTNL that canteen run departmentally in central government offices would be regarded as an excluded from definition of industry under section 2 (j) of I.D. Act and those employees do not come within the purview of said act. Submission is to the effect that tribunal has no jurisdiction.

12. For its explicit, that the association raised the dispute vide reference No.CGIT-2/171/98 in respect of Gavdevi Telephone Exchange Departmental Canteen of MTNL for regularization of canteen employees. This dispute was decided by the tribunal vide award dated 10.4.2000 in favour of the workman. The judgment was challenged before the Hon'ble High Court, Mumbai and High Court vide WP No. 1298 of 2001 along with civil application No. 3046 of 2006 directed the management of MTNL to comply with the award passed by this tribunal vide order dated 17.6.2016. The management has challenged the Hon'ble High Court's order in petition in special leave to appeal No. 37775 of 2016 in the Hon'ble Supreme Court and the Hon'ble Supreme Court in petition in special leave to appeal No. 37775 of 2016 vide order 13.4.2017 dismissed the special leave petition filed by MTNL. The facts of this reference and the matter before Hon'ble Supreme Court is one and the same. The copy of reference No. CGIT-2/171/98, the order of Hon'ble High Court in WP No. 1298 of 2001 along with Civil application No. 3046 of 2006 and the order of Hon'ble Supreme Court in petition in special leave to appeal No. 37775 of 2016 is on record.

13. In view of this legal position, it can be said that when the facts of the present reference are the same and the dispute as regards the canteen employees raised by Bombay Telephone Canteen Employees Association has been decided upto Hon'ble Supreme Court whereby award passed by the tribunal is confirmed, then it does not lie in the mouth of the MTNL to urge that this tribunal has no jurisdiction as canteen run departmentally in central government offices would be regarded as excluded from the definition of industry.

14. The Learned Counsel for the MTNL seeks to rely on the decision in case of MTNL & Ors V/S. Umesh Korga Bhandari & Ors. 2001 II CLR 200 wherein it is held that

> "the canteens run departmentally in central government offices would be regarded as excluded from the definition of "industry" under S. 2 (j) of the I.D. Act and those employees do not come within the purview of the said Act and that as such references under S. 10 (1) of I.D. Act were not maintainable."

15. However, the fact remains that the canteen employees who are appointed by MTNL are the industrial employees of the MTNL. It is admitted by the witness of the MTNL that the canteen in question is a departmental canteen of MTNL. Admittedly the canteen committee is appointed by the officers of telephone exchange and welfare department of MTNL provides funds for canteen. Even it is admitted by the witness of the management that the canteen is run by the department and the salaries of the employees are also paid by the department. In view of this admission, it can be said that the canteen employees were appointed by MTNL. They are the employees of MTNL and the employees working in the same canteen come within the purview of I.D. Act.

16. That apart the fact remains that earlier similar dispute was raised by the Bombay Telephone Canteen Employees Association and the tribunal has passed the award which has been confirmed by the Hon'ble High Court's and Hon'ble Supreme Court. In view of that also it can be said that the tribunal has jurisdiction to entertain the reference. The above issues are therefore answered accordingly as indicated against each of them.

Issue No.1 & 2.

17. Shri Harish N. Poojary [Ex.5] affirmed that he joined the services of the departmental canteen, Saawla Chambers, MTNL as Wash Boy in 1986. Since then he was working continuously without any break. He further affirmed that initially he was paid Rs.500/- only. In his cross examination he has stated that employment exchange has not issued any letter to him and even he has not applied to MTNL in 1986. Admittedly, he was not sent for medical examination by MTNL panel doctor and MTNL has never given any appointment letter since 1986.

18. Similarly in his evidence, Shri Narayan M. Sanil has affirmed that he joined the services of the departmental canteen, Saawla Chambers, MTNL as Wash Boy since January 1981 and since then he was working continuously in the said post without any break in service. Both of them have stated that they were appointed against the regular post from the date of their appointment though they were not given appointment letter. Shri Narayan M. Sanil has also admitted in his cross examination that employment exchange has not issued any letter to him and MTNL had not sent any call letter to him. He even admits that he was not sent for medical examination by MTNL panel doctor and MTNL has never given any appointment letter since 1981.

19. The association had produced documents to show that both these workmen have made representation to Chief General Manager, MTNL for regularization of their services mentioning therein that they were continuously working without any break since 1981 and 1986 respectively. We have document to show that special Divisional Engg., C.T., MTNL sent information to Asst. G.M. in respect of concerned workman to show that he was working in canteen since 1981 and his month-wise and year-wise attendance is given along with this information that would show that the

concerned workmen were working continuously since 1981 and 1986 respectively and their attendance was taken which is a matter of record of MTNL.

20. In respect of claim of the concerned employees for regularization and for getting proper wages, it appears that their claim is based on Hon'ble Supreme Court judgment by which it was decided that the employees working in the canteen of MTNL are entitled to regularization in service from the date of their appointment and they are entitled to arrears of pay and allowances and are also entitled to the benefits of 3rd and 4th Pay Commission recommendations. Both the workmen are claiming regularization on the basis of that judgment and therefore it cannot be said that the claim of the concerned workmen suffers from any latches.

21. We have document to show that similarly situated workmen working in canteen of MTNL are regularized in view of judgment of Hon'ble Supreme Court. It appears that the information was called by Asst. GM [Adm.] MTNL from SDE [Adm.] MTNL Mumbai in respect of casual labours which are still to be regularized and the reasons why they are not regularized. In that respect the information was given in respect of concerned workmen to Asst. GM [Adm.] MTNL by SDE [Adm.] MTNL Mumbai mentioning therein that Shri Narayan M. Sanil was not regularized because he was under age. That would show that the canteen employees were enlisted for regularization and some of them were regularized. Name of the concerned employees were not listed in the said list as is stated above because of the reason that they are under age and therefore they were not regularized. But that cannot be the reason for their non-regularisation. I say so because canteen employees have been considered as departmental canteen w.e.f. 1.10.1991. The association in the context relies on the Hon'ble Supreme Court judgment in case of MTNL V/s. Bombay Telephone Canteen Employees Association and the judgment of the Hon'ble Bombay High Court in case of Bombay Telephone Canteen Employees Association V/s. MTNL.

22. As seen earlier the service record of the concerned workmen shows that they were working in the canteen of MTNL since 1981 and 1986 respectively. In view of that it can be said that these canteen employees are employees of MTNL since the canteen committee appointed them which is a part & parcel of MTNL. The contention of MTNL that they are not the employer of the concerned workmen is without any basis. As a matter of fact the MTNL has regularized the services of other canteen employees appointed by canteen committee by MTNL and therefore the concerned employees are entitled to be regularized.

23. Even then it is the submission of the Learned Counsel for the MTNL that the recruitment for the post in MTNL are as per the guidelines laid down by the department. The concerned workmen have not been sponsored through employment exchange. Admittedly, they did not apply to MTNL for any job. They were never called for any interview. No any appointment letters are issued to them and therefore they are not entitled for regularization.

24. This submission is other way round. Whatever be the process of selection or appointment of concerned workmen, the fact remains that they have been employed and working in the canteen of MTNL. There is no contrary material placed on record to show that they were employees of any other agency. In view of judgment of the Hon'ble Supreme Court in case of MTNL V/s. Bombay Telephone Canteen Employees Association. The legal position is made clear that the MTNL is directed to take steps to regularize the services of the concerned workmen. Not only that the other similarly situated canteen employees are regularized. Hence the defence which is taken by the employer is without any basis.

25. Considering all these facts I find that the concerned workmen's demand for regularization in service is legal and justified. The above issues are therefore answered according. Hence I pass the following order.

ORDER

1. Demand of regularization in services of Shri Narayan M. Sanil & Shri Harish N. Poojary, Wash Boys is legal and justified.
2. Management is directed to regularize the services of Shri Narayan M. Sanil from 1.5.1982 & Shri Harish N. Poojary from 1.5.1986 and pay them all the arrears of pay & allowances after deducting the amount which is already paid.

Date: 22.08.2017

M. V. DESHPANDE, Presiding Officer

नई दिल्ली, 20 नवम्बर, 2017

का.आ. 2724.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय परियोजना प्रबंधक, लार्सन एंड टुब्रो कंस्ट्रक्शन कंपनी लिमिटेड, ठाणे एवं उनके कर्मचारी और अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. II, मुंबई के पंचाट (संदर्भ संख्या 38/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.11.2017 को प्राप्त हुआ था।

[सं. एल-42012/90/2014-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 20th November, 2017

S.O. 2724.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 38/2014) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the Project Manager, Lersen and Toubro Construction Co. Ltd., Thane and their workman and other, which was received by the Central Government on 08.11.2017.

[No. L-42012/90/2014-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT: M. V. Deshpande**,** Presiding Officer

REFERENCE NO.CGIT-2/38 of 2014

EMPLOYERS IN RELATION TO THE MANAGEMENT OF

LARSEN & TOUBRO CONSTRUCTION CO. LTD.

The Project Manager,
Larsen & Toubro Construction Co. Ltd.,
BARC, Site Tarapur Project, At & Po.
Ghiwali, Post. Tal. Palghar, Dist. Thane
Thane – 401 502.

AND

THEIR WORKMEN

Shri Madhukar Devnath Keni, Supervisor,
L& T Construction Co. Ltd., BARC Site,
Tarapur Project, At & Po. Ghiwali, Post.
Tarapur, Tal. Palghar, Dist. Thane
Thane – 401 502.

APPEARANCES:

FOR THE EMPLOYER : Mr. B.S. Mahamulkar, Advocate

FOR THE WORKMEN : In person

Mumbai, dated the 27th September, 2017

AWARD

1. This is reference made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide Government of India, Ministry of Labour & Employment, New Delhi vide its order No. L-42012/90/2014 – IR (DU) dated 08.07.2014. The terms of reference given in the schedule are as follows :

> "*Whether the action of management of Larsen & Toubro Construction Co. Ltd., over the issue of alleged illegal termination of service of Shri Madhukar Devnath Keni, Supervisor w.e.f. 11.10.2013 and non-issue of pass and salary is legal and justified ? If not, what relief the workman is entitled* to ?''

2. After the receipt of the reference, both the parties were served with the notices. They appeared through their respective representatives.

3. The second party workman has filed statement of claim Ex.6. According to the concerned workman, he was working as Supervisor with the first party employer. He had completed 240 days continuous service with first party employer. However, he raised the dispute against the management of L&T who is executing the contract work of construction of storage awarded by BARC Tarapur, in respect of non-payment of wages for the month of July 2013, August 2013, September 2013 & October 2013. Since the wages are not being paid to the workman by the first party employer at the rates prescribed by the National Commission for Atomic Energy, he refused to accept his wages and then raised the dispute before conciliation officer and ALC [C], Mumbai. However, during conciliation proceedings he was advised to accept his outstanding wages for the month of July 2013, August 2013, September 2013 & October 2013 and therefore he accepted it under protest.

4. According to the concerned workman, he wanted confirmation from L&T that wages paid to him of L&T were same wages which is prescribed by BARC or not ? He wanted confirmation in writing. Due to this reason his gate pass was handed over to security department of BARC Tarapur. However, his gate pass was not renewed and he was not allowed to enter the premises of L&T since from 11.10.2013 onwards.

5. According to the concerned workman, L&T has refused to take him back in the employment of BARC site of L&T. As such this action of the management of L&T Construction Co. Ltd. in non-issuing the pass and salary of the concerned workman and his termination of services is illegal. He is therefore asking for reinstatement in service with full back wages and other consequential benefits.

6. The first party management has filed written statement Ex.11 and resisted the claim of the concerned workman. At the outset it is the contention of the first party management that the present reference is not maintainable since the second party workman is not a workman within the meaning of section 2 (s) of the I.D. Act, 1947. It is then contention of the first party management that the second party workman has not completed 240 days continuous service with the first party management and as such he is not entitled to any relief. It is the contention of the first party management is a contractual firm engaged in the business of construction work and has been awarded contract of construction of storage facilities by management of BARC in short BARC at Tarapur, Tal. Palghar, Dist. Thane. The first party management has appointed the workers on contract basis for completion of the said project. The workers appointed by the first party management are paid on daily wages basis at the rates prescribed by Dy. CLC [C], Mumbai and as per the directions of BARC.

7. It is their case that second party workman was appointed by the first party management as un-skilled helper from the month of July, 2013 to work at the construction site of BARC at Tarapur, Dist. Thane as casual worker purely on temporary basis. He was supposed to work as per the directions of the officers of the first party at the construction site and was required to maintain strict discipline in the premises of BARC. However, the second party workman had started behaving rudely and in indiscipline manner not only with the officers and staff of the first party management but also with the staff and officers of BARC, as well as security personnel, from the very first day of his employment with the first party management.

8. It is also the case of first party management that second party workman hails from village Ghiwali, Post Tarapur, Tal. Palghar and as such he was taking advantage of his local connections. He has started dictating terms to one and all. He was appointed as un-skilled helper but on his own he proclaimed himself as supervisor and refused to do the work assigned to him by the staff and officers of the first party management. He refused to accept the wages for the month of July 2013, August 2013, September 2013 & October 2013 saying that he has not been paid wages at the rates prescribed by the National Commission of Atomic Energy. He was demanding that the contract workers should be appointed through him and he should be given contract of labour supply. On several occasions the concerned workman threatened the officers of first party management that if his demands are not fulfilled he will see that the entire project is stopped with the help of project affected local people. The second party workman was indulging in various acts of indiscipline and his behavior was almost arrogant. He used to instigate his co-workers to indulge in the acts of indiscipline since he misbehaved with security staff of BARC, his gate pass was confiscated by the security department of BARC on 10.10.2013 and thereafter his gate pass was not renewed.

9. According to the first party management, Demand draft of Rs.27,831/- was sent to the second party workman by RPAD towards his wages for the period from 1.7.2013 to 10.10.2013 and he has duly received and encashed. Now there exists no any dispute which constitute industrial dispute within the meaning of section 2 (k) of I.D. Act, 1947. Since his gate pass was not renewed, he was not allowed to resume duties and therefore the second party workman is not entitled to claim reinstatement and back wages as claimed by him. On these premise, the first party management has sought rejection of reference with costs.

10. Following issues were framed at Ex.12. I reproduce the issues along with my findings thereon for the reasons to follow:

Sr. No.	Issues	Findings
1	Whether the second party is 'workman' as defined under section 2 (s) of the I.D. Act ?	Yes
2.	Whether the workman is terminated or dismissed from service illegally ?	No
3.	If yes, whether the workman is entitled to be reinstated with full back-wages ?	No
4.	What relief the workman is entitled to ?	No

Reasons

Issue No. 1.

11. The first party management has questioned the status of the workman under section 2 (s) of I.D. Act, 1947. Section 2 (s) of I.D. Act, 1947 contains the statutory definition of the expression "workman". The expression "workman" as defined in substantive part of section 2 mean any person employed in an industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward.

12. Subsequent part of the definition provides that expression does not include a person who falls within the purview of sub-section I to IV thereof. Among the exception is a person who is mainly employed in the managerial or administrative capacity or who being employed in a supervisor capacity draws wages in excess of Rs.1600/- p.m. or exercises either by the nature of duties attached to the office or by the reason of powers vested in him functions mainly of managerial nature. In short the requirement to establish the status of an employee as workman under section 2(s) of I.D. Act, 1947 is that substantive nature of duties of employees must be those which are specifically spelt out in section 2 (s) of I.D. Act, 1947.

13. Here in the instant case it is the contention of first party management that second party workman was appointed by the first party management as un-skilled helper from the month of July 2013 to work at the construction site of BARC at Tarapur, Dist. Thane as casual worker purely on temporary basis. He is supposed to work as per the directions of the officers of the first party management at the construction site and was required to maintain strict discipline in the premises of BARC. Even in the register maintained by the first party management the name of workers are mentioned and the name of the present workman is mentioned at S. No.21. His designation is shown as Civil Helper. The number of days worked by him are mentioned. Rate of daily wages is mentioned and then gross salary given to him is mentioned considering number of days he worked out and rate of daily wages. It would again show that the concerned workman was appointed as Civil Helper. When it is the contention of the first party management itself that the concerned workman was appointed as a casual worker purely on temporary basis as un-skilled helper then it does not lie in the mouth of first party management that he was working in a managerial or administrative capacity and therefore it cannot be termed as a workman under section 2 (s) of the I.D. Act, 1947.

14. Learned Counsel for the first party management submitted that the concerned workman himself has claimed in the entire correspondence relied upon by him that he is working as a supervisor with the first party management and therefore he is not entitled to raise the dispute as he is not a workman as defined under provisions I.D. act. However, in para 2 of the affidavit Ex.20 witness of the first party management has stated that the concerned workman was appointed as worker on contract basis for completion of the project and they are paid on daily wages basis at the rates prescribed by Dy. CLC [C], Mumbai as per the directions of BARC. In his evidence he stated that the second party workman has appointed as unskilled helper to work at construction site of BARC but the concerned workman on his own proclaimed himself by the supervisor.

15. Considering the evidence of the witness of first party management it is very much clear that the second party workman was appointed as unskilled labour and not as supervisor. Only because the concerned workman is claiming that he was appointed as supervisor does not mean that he was employed mainly in administrative capacity or in supervisory capacity. It is because the duties which were being performed by the concerned workman are in respect of the work at the constructions site of BARC and that is to be done by him as per the directions of officers of first party management in the premises of BARC. Merely because in the summary of the first party management the names of workers are mentioned with their category and in the said summary, category of the concerned workman is shown as supervisor does not mean that he was appointed as supervisor or was working in supervisory capacity. The fact remains that he was appointed as helper and also the duties performed by him clearly indicated that he was working as a workman and not as a supervisor.

16. In this respect it will have to be said that the designation of the employee is immaterial. The nature of duties must be such on the basis of which it may be clearly inferable that the employee was performing the managerial duties. Supervisions by one of the helper on the work of other helpers does not mean that the said employee is a supervisor. In this case the nature of duties have clearly spelt out as mentioned in the documents relied upon by both the parties and even in the evidence in the first party witness he has clearly stated about the duties of the second party workman.

17. In this respect it will have to be said again that the salary of the employee is immaterial. In the context, hand can be laid on the decision in case of HR Adyanthay V/S. Sandoz [I] Ltd. & Ors. 1994 II CLR 522.

18. In other words, the definition of workman under section 2 (s) of the act refers to the nature of duties cost upon him which fall within the purview of work which is specifically provided for in the first para of the definition.

19. So considering the duties performed by the second party workman and looking to the evidence of the first party management itself and the documents relied upon by the concerned workman I find that the second party workman Mr. Madhukar D. Keni is workman. The issue No.1 is therefore answered in the affirmative.

Issue No.2, 3 & 4.

20. In this respect, the second party workman led his evidence stating therein that he was appointed as supervisor but he was not paid the wages for the months of July 2013, August 2013, September 2013 & October 2013 as per wages prescribed by BARC. He states that since he has refused to accept the wages as per the rates given by first party management, his gate pass was confiscated and he has been retrenched since he has not been allowed to do the work. this is precisely the evidence of the concerned workman.

21. However, in his cross examination he admits that he was offered the wages as per minimum wage by RLC but he demanded the wages prescribed by Anu Urja Ayog [Dept. of Atomic Energy]. It is also clear from his cross examination that he has made complaint to RLC through Commissioner mentioning that he was not allowed to join the duties since he did not accept the wages and RLC has told him that he should accept the wages as prescribed by RLC. He even admits that he received Demand Draft for Rs.27,831/- in respect of his wages from 1.7.2013 to 10.10.2013 as per the rates prescribed by RLC under protest. So the question is whether really his services came to be retrenched or not ? The question also creeps in whether the first party management did not allow him to do the work by confiscating his gate pass ?

22. For that it is also necessary to see whether the concerned second party workman has completed 240 days of service since he claims that he attended the status of being permanent workman and therefore his termination without following provisions of section 25F, 25G and 25N of the I.D. Act was illegal and therefore he is entitled to reinstatement with continuity of service and back wages.

23. Now it is admitted position that the concerned workman was engaged with L&T w.e.f July, 2013 and he continued to work for L&T till Oct. 2013. It is the evidence of concerned worked that he was not allowed to enter the work premises of L&T from 11.10.2013. Meaning thereby that he worked with L&T, first party management from July 2013 to Oct. 2013. If this period is being taken into consideration then admittedly it can be said that he has not worked continuously for 240 days in a year with first party management.

24. Even it is clear from the evidence of the first party management that the first party management being a contractual firm engaged in the business of construction work has been awarded contract of construction of storage facility by the management of BARC and therefore first party management has appointed workers on contract basis for completion of the said project. So the nature of work to be carried out was not continuous and of permanent nature. The workers were appointed on casual basis on daily wages and they were also paid at the rates of daily wages as per the rates prescribed by Dy. CLC [C], Mumbai and as per the directions of BARC. The fact is clear that there is no appointment letter to show that the work was of permanent nature. So when the appointment of the concerned workman was temporary for the particular period i.e. till completion of construction work to be carried out by the first party management, then they are not entitled to claim the permanency or reinstatement.

25. Then it is the case of concerned workman that his gate pass was not renewed since he has refused to accept the wages. But then the fact remains that as per the advice of the conciliation officer, management was advised to release the wages to the concerned workman. Then the management has issued demand draft of Rs.27,831/- drawn in the name of concerned workman against the outstanding dues for the month of July to October, 2013 and the concerned workman has accepted the dues. It cannot be said therefore that the dues were not paid to the concerned workman and since he refused to accept the wages, the gate pass was not renewed.

26. As against, it is the case of first party management that the concerned workman was indulged in various acts of indiscipline and his behavior was most arrogant. He used to instigate his co-worker to indulge in act of indiscipline. He misbehaved with the security staff of BARC and hence the security staff of BARC has confiscated his gate pass and therefore his gate pass was not renewed. This is also evidence of D.V. Chandrashekar the witness of the management and his cross examination in the context remains unshaken.

27. Even the documents relied by the concerned workman in respect of information called by him under RTI Act from Sub-Divisional Police Officer, Boisar would indicate that the statement of Sanjeev Kumar Markande & others were recorded by the police and this enquiry has reference to the complaint filed by the concerned workman against the officers of first party management. The fact remains that the security department of BARC has confiscated the gate pass of the second party workman because of which the first party management was enable to provide employment to him since his gate pass was not renewed by the security department of BARC. Obviously, therefore there is no question of termination of the services of the concerned workman with the first party management. He having not worked for 240 days in the preceding 12 calendar months, it cannot be said that the act of first party management amounts to retrenchment within the meaning of section 2 (oo) of I.D. Act, 1947.

28. That apart, the Learned Counsel for the first party management submitted that contract of construction work which was awarded by the management of BARC has been completed and as such there is no question of reinstatement of the concerned workman since he was engaged as a casual labour for completion of the said project, which is now completed.

29. In this view of matter, it cannot said that the concerned workman is terminated or dismissed from service illegally. Therefore he is not entitled to be reinstated. The above issues are therefore answered accordingly as indicated against each of them in terms of above observations.

30. In the result I find that the workman is not entitled to any relief. Hence, I pass the following order.

ORDER

Reference is rejected with no order as to costs.

M.V. DESHPANDE, Presiding Officer

Date: 27.09.2017

नई दिल्ली, 20 नवम्बर, 2017

का.आ. 2725.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सचिव (गैर-सांविधिक कैंटीन), औद्योगिक नीति एवं संवर्धन विभाग, मैसर्स वाणिज्य और उद्योग, नई दिल्ली एवं जनरल सेक्रटरी, अखिल भारतीय केन्द्रीय सरकार कैंटीन एम्प्लॉइज एसोसिएशन, नई दिल्ली के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, दिल्ली सं. 1 के पंचाट (संदर्भ संख्या 97/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.10.2017 को प्राप्त हुआ था।

[सं. एल-42011/28/2016-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 20th November, 2017

S.O. 2725.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 97/2016) of the Central Government Industrial Tribunal/Labour Court No. 1, Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the Secretary (Non-Statutory Canteen), Department of Industrial Policy and Promotion, M/o. Commerce and Industries, New Delhi and the General Secretary, All Indian Central Government Canteen Employees Association, New Delhi, which was received by the Central Government on 26.10.2017.

[No. L-42011/28/2016-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT NO. 1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 97/2016

The General Secretary
All India Central Government Canteen Employees Association,
F-48, Lado Sarai,
New Delhi – 110 030 …Workman

Versus

The Secretary (Non-statutory Canteen)
Department of Industrial Policy & Promotion (DIPP)
Ministry of Commerce & Industries,
Udyog Bhawan,
New Delhi 110 011 …Management

Central Government, vide letter No.L-42011/28/2016-IR(DU) dated 29.03.2016, referred an industrial dispute to this Tribunal for adjudication under clause d of subsection (1) and sub section (2A) of Section 10 of the Industrial Disputes Act(in short the Act), the terms of which are as under:

> 'Whether the decision of management of non-statutory canteen in placing Shri Siya Ram in the grade pay of Rs.2800 after his MACP is just, fair and? If not, what relief the workman concerned is entitled to?

2. Claim was filed by Shri Siya Ram, the claimant, averring that he was joined the Departmental Canteen on 22.06.1998 and since the date of his appointment, neither his pay was upgraded nor was he given any promotion. After completing 28 years of service, claimant was entitled for 2nd ACP in the pay scale of Rs.5000-8000 with effect from 25.09.2008. As per the orders of Hon'ble CAT, the pay of the claimant was revised in the pay scale of Rs.4500-6000, i.e. 1st ACP with effect from 22.12.2014 but after completing 24 years of service, his pay was not revised in the pay

scale of Rs.9300-34800. A departmental canteen clerk was granted the pay scale of Rs.9300-34800 plus grade pay of Rs.4200 as per the notification GSR – 125 dated 19.08.2009 and promoted as Deputy General Manager in the pay scale of Rs.9300-34800 plus grade pay of Rs.4200, which is to be extended to the claimant also. The claimant completed 16 years of combined service in the IP & P, Udyog Bhawan and retired from service on 31.03.2015. The claimant is allowed pension of Rs.7620.00 which is less than the entitlement for the other canteen employees who were granted pay scale of Rs.9300-34800 with grade pay of Rs.4200. Finally it has been prayed that the claimant be granted pay sale of Rs.9300-34200 and grade pay of Rs.4200 with effect from 19.08.2009 with all consequential benefits.

2. Written statement was filed by the management with the averments that the claimant was appointed as salesman on 22.06.1998 in Udyog Bhawan Departmental Canteen in the pay scale of Rs.825-1200. He was taken on the rolls of Department of Industrial Development as Government servant with effect from 01.10.1991 in pursuance of DOPT Om No.12/05/1992-DIR(C) dated 29.01.1992. He was granted revised scale of Rs.3050-4590 with effect from 01.01.1996 after implementation of Fifth Pay Commission and was granted 1st ACT in the scale of Rs.3200-4900 with effect from 22.06.200 on completion of 12 years of regular service. In pursuance of DPT OM No.3/4/2005 dated 10.04.2006 and the claimant was granted revised pay scale of Rs.4000-6000 with effect from 22.12.2004 . On implementation of Sixth Pay Commission, he was granted grade pay of Rs.2400 in the scale of pay of Rs.5200-20200 in PB-I with effect from 01.01.2006. Consequent upon implementation of MACP scheme the claimant was MACP-II with effect from 01.09.2008 after completion of 20 years of regular service in the grade pay of Rs.2800 which is the next higher grade pay and the scheme is effect from 01.09.2008 and his MACP-III is due on 22.06.2018. Thereafter a complaint was filed before the ALC that the claimant should have been granted grade pay of Rs.4200 instead of Rs.2800, which was actually granted to him under the MACP scheme. However, conciliation proceedings ended in failure. DOPT's notification dated 19.08.2009 regarding recruitment rules prescribing 8 years as Assistant Manager cum Store Keeper, failing which Assistant Manager cum Store Keeper and Clerk/Salesman with 16 years of combined regular service mentioned by the claimant is for promotion and not for MACP. The claimant has not been granted any promotion to the next higher post as it is already filled up with another senior incumbent. The applicant has already been granted two financial upgradations available under the prevailing rules, hence his prayer for granting pay scale of Rs.9300-34,800 with grade pay of Rs.4200 cannot be acceded to.

3. Thereafter the matter was listed for filing of rejoinder by the claimant and for framing of issues. In the meanwhile, it was brought to the notice of the Tribunal by the learned A/R for the claimant that Shri Siya Ram is no more interested in pursuing the case and he is not coming forward to prosecute the case. In such circumstances, this court is left with no alternative but to pass a 'no claim' award. An award is, accordingly, passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A. C. DOGRA, Presiding Officer

Dated : October 25, 2017

नई दिल्ली, 20 नवम्बर, 2017

का.आ. 2726.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार प्रबंधन, नेशनल इंस्टीट्यूट ऑफ पब्लिक कॉरपोरेशन एंड चाइल्ड डेवलपमेंट, नई दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, दिल्ली सं. 1 के पंचाट (संदर्भ संख्या 128/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.10.2017 को प्राप्त हुआ था।

[सं. एल-42011/59/2016-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 20th November, 2017

S.O. 2726.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 128/2016) of the Central Government Industrial Tribunal/Labour Court, No. 1 Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the Management, National Institute of Public Corporation and Child Development, New Delhi and others and their workman, which was received by the Central Government on 26.10.2017.

[No. L-42011/59/2016-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT NO.1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 128/2016

Shri K Ravindran S/o Shri N Kochucherkan,
Through Delhi Plumber Allied Industrial Workers Union,
1800/9, Govindpuri Extension,
Kalkaji Main Road,
New Delhi 110 019 …Workman

Versus

1. The Management,
National Institute of Public Corporation and Child Development,
5, Siri Institutional Area, Hauz Khas,
New Delhi – 110 016

2. The Management,
M/s. Vinod Manchanda Security Agency, …Managements

AWARD

Brief facts giving rise to the reference petition are that Ministry of Labour, Government of India, vide letter No. L-42011/59/2016-IR(DU) dated 01.06.2016 referred the following dispute for adjudication under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the of the Industrial Disputes Act, 1947(in short the Act), terms of which are as under:

> 'Whether the services of the workman Shri K Ravindran S/o Shri N. Kochucherkan have been illegally and/or unjustifiably terminated from the establishment of National Institute of Public Corporation and Child Development by the management and if so, what relief the workman concerned is entitled to and what directions are necessary in this respect?

2. Both parties were put to notice and the claimant herein, Shri K Ravindran, filed statement of claim wherein it is alleged that claimant joined services of National Institute of Public Corporation and Child Development (hereinafter referred to as management No.1) through M/s Vinod Manchanda Security Agency (hereinafter referred as management No.2) as security guard on 01.02.2013 and he has been drawing salary of Rs.12,700.00 at the time of his termination by the management on 02.03.2015. Principal employer in the present case is management No.1 and management No.2 is an illegal contractor. Management No.1 has used services of management No.2 so that it could escape burden of paying workmen their statutory rights. Management, in fact, has violated provisions of Contract Labour (Regulation and Abolition) Act, 1970 (in short the CLRA Act). Claimant was appointed by management No.1 but his service record was maintained with management No.2 with whom the claimant has no relationship.

3. It is also alleged that Delhi Government has not provided any licence to management No.2 to employ any contract labour in terms of provisions of CLRA Act nor is management No.1 duly registered under the above Act. Claimant had put in more than 2 years of unblemished service with the management without any complaint from any quarter regarding performance of his duties as he was a diligent and devoted worker. It is further alleged that the claimant was not paid any overtime allowance or charges though he has performed duties for more than 10-12 hours. He was not being paid minimum wages, including weekly holidays, conveyance, annual increments etc. When the claimant demanded statutory rights, management got annoyed and thus wanted to get rid of the claimant on one pretext or the other.

4. It is the case of the claimant that a car bearing No.UP 32 DS 4347 was illegally being filled with diesel through an employee of CPWD. When the claimant tried stopping the employee, the driver and the employee started misbehaving with the claimant. The claimant made a complaint to the Director of the establishment, Shri Sanjay Paul. However, the Director also abused the claimant and management started keeping a retaliatory and revengeful attitude by the claimant. Claimant also complained to Ms.Maneka Gandhi, Minister for Women and Child Development. Management also forced the claimant to sign on some blank papers before permitting him to proceed on leave. Finally services of the claimant were terminated on 02.03.2015 without assigning any reason and in violation of provisions of the Act.

5. Claimant served demand notice dated 08.06.2015 on the management for his reinstatement in service with full back wages but the management did not give any reply to the same. Claimant also raised the issue thereafter before the

Conciliation Officer but the management did not co-operate, resulting in failure of conciliation. Claimant has finally prayed for declaring his termination illegal and sought full back wages.

6. None appeared on behalf of management No.1 despite affording several opportunities. Accordingly, management No.1 was proceeded ex-parte on 19.01.2017.

7. Management No.2 filed reply, taking certain preliminary objections wherein it is alleged that a cheque for Rs.2,041 dated 15.05.2015 drawn in favour of the claimant was sent to him by post for payment of bonus for the period from 01.08.2014 to 28.02.2015 but the same was returned undelivered. On merits, it is denied that the claimant joined services of management No.1 through management No.2 as security guard on 01.02.2013. It is alleged that management No.2 came into existence only in July 2014 and got licence to run the security agency on 12.08.2014. When management No.2 was not in existence on 12.08.2014, how can the claimant join management No.1 through management No.2 on 01.02.2013. It is also denied that the claimant was getting Rs.12,400.00 per month at the time of his termination on 02.03.2015. Management No.2 also submits that it is duly registered with Delhi Private Security Agencies (Regulation) Rules 2009 to run private security agency. It is also submitted that the claimant was appointed by Management No.2 on 01.08.2014. Management No.2 has denied the other material averments made in the statement of claim.

8. Claimant filed rejoinder to the statement of claim filed by management No.2 and reasserted the stand taken in the statement of claim.

9. Against this factual background, this Tribunal, vide order dated 17.03.2017 framed the following issues:

(i) Whether the workman has not completed 240 days prior to his alleged termination, as alleged?

(ii) In terms of reference

10. Claimant, in order to prove his case against the management, examined himself as WW1 and tendered in evidence his affidavit Ex.WW1/A. He also relied upon documents Ex.WW1/1 to Ex.WW1/10. There is no cross examination of the by any of the authorized representatives of the managements. It is clear from perusal of affidavit Ex.WW1/A and it is on the same lines as the averments made in the statement of claim. No evidence has been adduced by either of the managements as the managements were already ex-parte, i.e. National Institute of Public Corporation and Child Development on 19.01.2017 and M/s Vinod Manchanda Security Agency on 24.07.2017.

11. It is clear from the matrix of the case that the claimant has come with the specific plea that he was engaged as security guard with management No.1 through management No.2 on 01.02.2013. Demand notice served on the management is Ex.WW1/1. Perusal of the notice would also show that the date of engagement of the claimant in the said notice is 01.02.2013. The said notice has been served through Shri E.K. Vasudevan, Delhi Plumber Allied Industrial Workers Union. There is also document Ex.WW1/4 which shows that statement of claim has been filed by Shri E.K. Vasudevan before the Assistant Labour Commissioner. Ex.WW1/6 is the letter by Deputy Director to Assistant Labour Commissioner regarding the dispute between the claimant and the management. There is another letter dated 13.07.2015 Ex.WW1/7 vide which M/s Vinod Manchanda Security Agency management No.2. to the office of the Deputy Labour Commissioner, which shows that the security agency commenced its business with effect from July 2014 only and management No.2 has not received any letter from the Assistant Labour Commissioner earlier to this. In para 3 of this letter, it is mentioned that the claimant joined services of management No.2 on 01.08.2014 and left on 28.02.2015. Ex.WW1/7 is the information supplied to the claimant under the RTI Act in 2015, which shows that management No.1 has entered into an agreement with management No.2 on 26.09.2014.

12. Shri Sunil Kumar, A/R for the claimant strongly urged that the evidence of the claimant is very clear to the effect that he was engaged by management No.1 through management No.2 on 01.02.2013 as security guard. In this regard, attention of the court is also invited to the affidavit of the claimant Ex.WW1/A. I have carefully gone through the contents of the said affidavit, which is on the same lines as the averments contained in the statement of claim. There is no cross examination of the claimant on behalf of either of the managements. Law is fairly settled that version of the claimant or plaintiff is not specifically refuted by the defendant or the opposite party during the course of evidence, in that eventuality court can rely upon the statement of claim. Equally settled is the proposition of law that if a party to the case does not does not enter into the witness box so as to put forth its version or stand taken in the pleadings, in that eventuality, court can also draw adverse inference against the said party. I find support to this view from the case of Vidhyadhar vs. Manikrao (1991) SC 1441 as well as Iswar Bhai C. Patel & Bachu Bhai ... vs Harihar Behera 1999(2) Current Civil Cases 171 (SC) . In both the above cases, Hon'ble Apex Court held that the if a party does not enter into the witness box to make a statement on oath in support of his pleadings nor affording himself to be cross examined by the other side would result in drawing of adverse inference under Section 114 of the Evidence Act. In the case on hand also, the management No.2 has taken the stand that it came into existence only July 2014 after obtaining licence under the CLRA Act. However, there is no documentary proof submitted by management No.2 regarding this fact nor either of the management cross examined the claimant regarding his engagement on 01.02.2013.

13. The court cannot be *oblivious* of the fact that in most of the cases, managements are engaging workers as security guards without issuance of any letter of appointment. The same is purposely done by such agencies so that

they can follow the policy of hire and fire. As discussed above, no documents of registration by management No.1 in terms of Section 7 of the CLRA Act nor any licence in terms of section 12 of the CLRA Act has been filed by management No.2. In such circumstances, the court has no other choice except to rely on the version of the claimant herein, who has entered into the witness box and made a detailed statement in his affidavit Ex.WW1/A.

14. Since the claimant has stated that he was working continuously and the date of termination of the claimant herein is not in dispute as the same is admitted by the management also, in such circumstances, it can be inferred that the claimant was working continuously.

15. Admittedly, no notice has been served upon the claimant herein before ordering his termination by either of the managements, in terms of section 25F of the act. It is now well settled position in law that provisions of section 25-F are mandatory in nature and non-compliance of the same would render the action of the management to be illegal and void under the law. *In Bhuvanesh Kumar Dwivedi Vs. Hindalco (2014 SLT 392) Hon'ble Apex Court dealt with the question of termination of service and payment of back wages etc. and while interpreting* the provisions of Section 25 F of the Act and observed as under:

> "13. ….. no workman employed in any industry who has been in continuous service for not less than one year under an employer can be retrenched by that employer until the conditions enumerated in Clauses (a) and (b) of Section 25 F of the Act are satisfied. In terms of Clause (a), the employer is required to give to the workman one month's notice in writing indicating the reasons for retrenchment or pay him wages in lieu of the notice. Clause (b) casts a duty upon the employer to pay to the workman at the time of retrenchment, compensation equivalent to fifteen days' average pay for every completed year of continuous service of any part thereof in excess of six months. This Court has repeatedly held that Section 25F(a) and (b) of the Act is mandatory and non-compliance thereof renders the retrenchment of an employee nullity."

16. It is thus clear from the ratio of the above authorities that compliance of provisions of Section 25 F is mandatory under the law and violation of the same would render action against the management to be illegal or void under the law. *Same view appears to have been taken by the Hon'ble Apex Court in the case of State of UP vs. KM Shashi Joshi (2015 LLR 158). It is held that termination of the workman vide order dated 20.07.2010 Ex.WW1/4 is legally not justified as the same is in violation of provisions of the Industrial Disputes Act 1945 as well as principles of natural justice.*

17. In view of the legal position discussed above, it is held that the claimant herein has worked for 240 days continuously prior to his termination, hence termination of services of the claimant is illegal as well as unjustified under the law.

18. Now the residual question is whether the claimant herein is entitled for reinstatement with full back wages. It is now well settled position in law that merely holding order of termination to be void under the law would not mean that the workman is entitled for automatic reinstatement with full back wages. The Hon'ble Apex Court in case **"Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya"** has held as under :

The propositions which can be culled out from the aforementioned judgments are:

i) In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.

ii) Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then I has to plead and also lead cogent evidence to prove that the employee/workman wads gainfully employed and was getting wages equal to the wages he/she wads drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averments about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments."

19. The Hon'ble Apex Court also held that different expressions are used for describing the consequence of termination of a workman's service/employment/ engagement by way of retrenchment without complying with the mandate of Section 25-F of the Act. Sometimes it has been termed as ab initio void, sometimes as illegal per se, sometime as nullity and sometimes as non est. Leaving aside the legal semantics, we have no hesitation to hold that termination of service of an employee by way of retrenchment without complying with the requirement of giving one month's notice or pay in lieu thereof and compensation in terms of Section 25F (a) and (b) has the effect of rendering

the action of the employer and nullity and the employee is entitled to continue in employment as if his service was not terminated. (*Anoop Sharma Vs. Executive Engineer, Public Health Division No.1 Panipat* (2010) 5 SCC 497).

20. Since in the case on hand, the claimant herein has approached the Assistant Labour Commissioner at the earliest and the management has not even cared to step into the witness box so as to prove its stand taken in the pleadings, as such, this Tribunal is of the view that the claimant herein is entitled to be reinstated in service. There is nothing on record to suggest that he was gainfully employed. The claimant has specifically claimed in his statement of claim as well as his affidavit that after his termination, he is not employed anywhere. In such a situation, it is held that Shri K. Ravindran, the claimant herein, has been illegally and unjustifiably terminated from the establishment of National Institute of Public Corporation and Child Development by the management. It is, therefore, held that the claimant herein is entitled to reinstatement with 50% back wages. An award is accordingly passed. It be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A. C. DOGRA, Presiding Officer

Dated : October 24, 2017

नई दिल्ली, 22 नवम्बर, 2017

का.आ. 2727.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बी. सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, धनबाद के पंचाट (संदर्भ संख्या 22/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.11.2017 को प्राप्त हुआ था।

[सं. एल-20012/237/1998-आईआर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 22nd November, 2017

S.O. 2727.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad
(Ref. No. 22 of 1999) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 06.11.2017.

[No. L-20012/237/1998-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947.

Reference: No. 22/1999

Employer in relation to the management of Sijua Area of M/s. BCCL

AND

Their workman

Present: Shri R.K.Saran**,** Presiding Officer.

Appearances:

For the Employers : None
For the workman. : None

State : Jharkhand. Industry- Coal

Dated-25/10/ 2017

AWARD

By order No. L-20012/237/1998-IR(C-I) dated 29/01/1999 the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub –section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management in not offering employment to the dependent widow daughter namely Smt. Chinta Bouri of Late Rampado Bouri, Ex-D/Operator of Sendra Bansjora Colliery of M/s. BCCL is justified? If not, to what relief the dependent daughter (Widow) of late Rampado Bouri is entitled?

2. After receipt of the reference, both parties are noticed. But after filing of written statement by the union, none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 22 नवम्बर, 2017

का.आ. 2728.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बी. सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, धनबाद के पंचाट (संदर्भ संख्या 21/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.11.2017 को प्राप्त हुआ था।

[सं. एल-20012/259/1998-आईआर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 22nd November, 2017

S.O. 2728.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 21 of 1999) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 06.11.2017.

[No. L-20012/259/1998-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947.

Reference: No. 21/1999

Employer in relation to the management of Block-II Area of M/s. BCCL.

AND

Their workman

Present: Shri R.K.Saran**,** Presiding Officer

Appearances:

For the Employers : Shri D.K.Verma, Advocate
For the workman. : None

State : Jharkhand. Industry- Coal

Dated: 20/10/ 2017

AWARD

By order No. L-20012/259/1998-IR(C-I) dated 28/01/1999 the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub–section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the demand of the union for the correction of the date of birth of Sri Gouri Shankar Nonia, Driver under Block-II Area of M/s. BCCL as 07/03/1950 is legal and justified ? If not, to what relief Sri Gouri Shankar Nonia is entitled?"

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 22 नवम्बर, 2017

का.आ. 2729.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स सी. सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, धनबाद के पंचाट (संदर्भ संख्या 126/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.11.2017 को प्राप्त हुआ था।

[सं. एल-20012/36/1999-आईआर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 22nd November, 2017

S.O. 2729.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 126 of 1999) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. CCL and their workmen, which was received by the Central Government on 06.11.2097.

[No. L-20012/36/1999-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947.

Reference: No. 126/1999

Employer in relation to the management of Topa Colliery of M/s. C.C.L

AND

Their workman

Present: Shri R. K. Saran, Presiding Officer.

Appearances:

For the Employers : Shri D.K. Verma, Advocate
For the workman. : None

State : Jharkhand. Industry- Coal

Dated: 10/10/ 2017

AWARD

By order No. L-20012/36/1999-IR(C-I) dated 04/06/1999 the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub –section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the claim of the Union that the workmen of 3 Central Quarry worked during the period from 08/06/1998 to 12/06/1998 is correct? If yes, in that case whether the action of the management of M/s. CCL not paying the wages to the workmen as per the rule of No Work No is Justified? If not, What relief the workmen concerned are entitled?''

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 22 नवम्बर, 2017

का.आ. 2730.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स सी. सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण एवं श्रम न्यायालय-1, धनबाद के पंचाट (संदर्भ संख्या 78/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.11.2017 को प्राप्त हुआ था।

[सं. एल-20012/37/2005-आईआर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 22nd November, 2017

S.O. 2730.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 78 of 2005) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. CCL and their workmen, which was received by the Central Government on 06.11.2017.

[No. L-20012/37/2005-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947.

Reference: No. 78/2005

Employer in relation to the management of Barka Sayal Area M/s. CCL

AND

Their workman

Present: Shri R. K. Saran, Presiding Officer.

Appearances:

For the Employers : None
For the workman. : None

State : Jharkhand. Industry- Coal

Dated: 23/10/ 2017

AWARD

By order No. L-20012/37/2005-IR(C-I) dated 13/09/2005 the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub –section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the demands of the Coalfields Mazdoor Union from the management of CCL, Barka Sayal Area (1) for the payment of monetary compensation to Ms. Sarita Kumari, the daughter of deceased employee, late Munshi Munda and (2) for keeping the male dependants namely S/Shri Ranjeet Munda and Shankar Munda on a live roaster for considering them for employment on attaining the age of 18 years as per clause 9.5.0 of NCWA- VI are genuine and justified? If so, to what relief are the said dependants entitled and from what date?".

2. After receipt of the reference, both parties are noticed. But none appears from either side. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 22 नवम्बर, 2017

का.आ. 2731.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बी. सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, धनबाद के पंचाट (संदर्भ संख्या 197/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.11.2017 को प्राप्त हुआ था।

[सं. एल-20012/335/1996-आईआर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 22nd November, 2017

S.O. 2731.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 197 of 1997) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 06.11.2017.

[No. L-20012/335/1996-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947.

Reference: No. 197/1997

Employer in relation to the management of South Tisra Colliery of M/s. BCCL,

AND

Their workman

Present: Shri R. K. Saran**,** Presiding Officer.

Appearances:

For the Employers : None
For the workman. : None

State : Jharkhand. Industry- Coal

Dated: 11/10/ 2017

AWARD

By order No. L-20012/335/1996-IR(C-I) dated 25/11/1997 the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub –section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of South Tisra Colliery of M/s BCCL in denial to provide employment to the dependent son of late Sadhu Charan Ghosh, Dispatch Clerk is justified? If not, to what relief is the concerned workman entitled?"

2. After receipt of the reference, both parties are noticed. But appearing for certain dates, subsequently did not appears nor take any interest in the case by the workman. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 22 नवम्बर, 2017

का.आ. 2732.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बी. सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, धनबाद के पंचाट (संदर्भ संख्या 92/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.11.2017 को प्राप्त हुआ था।

[सं. एल-20012/89/2005-आईआर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 22nd November, 2017

S.O. 2732.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 92 of 2005) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 06.11.2017.

[No. L-20012/89/2005-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947.

Reference: No. 92/2005

Employer in relation to the management of Sijua Area M/S BCCL

AND

Their workman

Present: Shri R.K.Saran, Presiding Officer.

Appearances:

For the Employers : None
For the workman. : None

State : Jharkhand. Industry- Coal

Dated: 24/10/ 2017

AWARD

By order No. L-20012/89/2005-IR(C-I) dated 02/11/2005 the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the management of BCCL, Sijua Area is justified in not giving employment Sh. Tarzan Chouhan, son of Smt. Kaushalya chouhan after accepting the resignation of the latter under VRS(f)? If not, to what relief is the workman or her son entitled?"

2. After receipt of the reference, both parties are noticed. But none appears from either side. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 22 नवम्बर, 2017

का.आ. 2733.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बी. सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, धनबाद के पंचाट (संदर्भ संख्या 90/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.11.2017 को प्राप्त हुआ था।

[सं. एल-20012/79/1996-आईआर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 22nd November, 2017

S.O. 2733.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 90 of 1997) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 06.11.2017.

[No. L-20012/79/1996-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947.

Reference: No. 90/1997

Employer in relation to the management of Barora Coal Washery of M/s. BCCL

AND

Their workman

Present: Shri R.K.Saran, Presiding Officer.

Appearances:

For the Employers : None
For the workman. : None

State : Jharkhand. Industry- Coal

Dated: 20/10/ 2017

AWARD

By order No. L-20012/79/1996-IR(C-I) dated 03/04/1997 the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub –section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the demand of the Union for the promotion of Shri G.C.Ghosh, Clerk Grade II to the post of office superintendent is justified? If so, to what relief is the concerned workman entitled?''

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 22 नवम्बर, 2017

का.आ. 2734.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बी. सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, धनबाद के पंचाट (संदर्भ संख्या 85/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.11.2017 को प्राप्त हुआ था।

[सं. एल-20012/567/1998-आईआर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 22nd November, 2017

S.O. 2734.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 85 of 1999) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 06.11.2017.

[No. L-20012/567/1998-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947.

Reference: No. 85/1999

Employer in relation to the management of Govindpur Area M/s. BCCL

AND

Their workman

Present: Shri R.K.Saran, Presiding Officer.

Appearances:

For the Employers : Shri D.K. Verma, Advocate

For the workman. : None

State : Jharkhand. Industry- Coal

Dated: 25/10/ 2017

AWARD

By order No. L-20012/567/1998-IR(C-I) dated 17/05/1999 the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub –section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of BCCL, in not protecting the wages of Shri Rajendra Prasad Lala, is justified? If not, to what relief the workman is entitled?''

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently on behalf of the Sponsoring Union. Management is present. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 22 नवम्बर, 2017

का.आ. 2735.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बी. सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, धनबाद के पंचाट (संदर्भ संख्या 67/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.11.2017 को प्राप्त हुआ था।

[सं. एल-20012/290/1995-आईआर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 22nd November, 2017

S.O. 2735.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 67 of 1997) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 06.11.2017.

[No. L-20012/290/1995-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947.

Reference: No. 67/1997

Employer in relation to the management of Amlabad Collikery of M/s. BCCL.

AND

Their workman

Present: Shri R.K. Saran**,** Presiding Officer.

Appearances:

For the Employers : None
For the workman. : None

State : Jharkhand. Industry- Coal

Dated: 23/10/ 2017

AWARD

By order No. L-20012/290/1995-IR(C-I) dated 07/03/1997 the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub –section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management in denial to pay the subsistence allowance to Shri Nabi Rasul Mian tyndal from 10.08.1993 till resumption of duties by him is justified? If not, to what relief is the concerned workman entitled?''

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 22 नवम्बर, 2017

का.आ. 2736.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स सी. सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, धनबाद के पंचाट (संदर्भ संख्या 46/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.11.2017 को प्राप्त हुआ था।

[सं. एल-20012/449/1998-आईआर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 22nd November, 2017

S.O. 2736.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 46 of 1999) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. CCL and their workmen, which was received by the Central Government on 06.11.2017.

[No. L-20012/449/1998-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947.

Reference: No. 46/1999

Employer in relation to the management of Argada Colliery of M/s. CCL

AND

Their workman

Present: Shri R.K. Saran**,** Presiding Officer

Appearances:

For the Employers : Shri D.K. Verma, Advocate
For the workman : None

State : Jharkhand. Industry- Coal

Dated: 20/10/ 2017

AWARD

By order No. L-20012/449/1998-IR(C-I) dated 17/04/99 the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub –section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Argada Colliery of M/s CCL in not regularizing S/Shri Rameshwar Mahato & 5 others in time- rated Category is justified? If not, to what relief the concerned workmen are entitled?"

Note:- List of workmen is not enclosed alongwith order of reference.

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 27 नवम्बर, 2017

का.आ. 2737.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2 मुम्बई के पंचाट (संदर्भ संख्या 17/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.11.2017 को प्राप्त हुआ था।

[सं. एल-12012/77/2012-आईआर (बी-I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 27th November, 2017

S.O. 2737.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 17/2013) of the Central Government Industrial Tribunal/Labour Court No. 2, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 27.11.2017.

[No. L-12012/77/2012-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT : M. V. Deshpande, Presiding Officer

REFERENCE NO. CGIT-2/17 of 2013

EMPLOYERS IN RELATION TO THE MANAGEMENT OF STATE BANK OF INDIA

Assistant General Manager,
State Bank of India, Zonal Office,
Admn Office, Sharda Chamber,
7th Floor, 386/2, Shankarseth Road,
Pune – 411 037.

AND

THEIR WORKMAN

Smt. Asha Hambir Gaikwad,
S. No. 31, Dhanori,
Mumjaba Vasti,
Pune – 411 015.

APPEARANCES:

FOR THE EMPLOYER : Shri M.G. Nadkarni, Advocate
FOR THE WORKMAN : Mr. Umesh Vishwad, Advocate

Mumbai, dated the 14th July, 2017.

AWARD

1. This is reference made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide Government of India, Ministry of Labour & Employment, New Delhi vide its order No. L-12012/77/2012 – IR (B-I) dated 03.04.2013. The terms of reference given in the schedule are as follows :

> "*Whether the action of the management of State Bank of India, Zonal Office, Pune in terminating the services of Smt. Asha Hambir Gaikwad w.e.f. 16.1.2012 is legal and justified ? If not, to what relief the workman is entitled to ?''*

2. After the receipt of the reference, both the parties were served with the notices. They appeared through their respective representatives. Second party workman filed statement of claim Ex.6. According to the concerned workman, she was working with the first party bank since 1992 as a Sweeper. She has worked continuously from 1992 to 16.1.2012 with the first party bank. She was doing the work of cleaning and sweeping the premises of Zonal Office Pune and the officers' quarters of the first party bank under direct control and supervision of the first party bank. Her

work is regular and perennial. The first party bank was making payment to her. As such there is direct employer-employee relationship between first party bank and second party workman.

3. According to the second party workman, a group of workmen raised the industrial dispute against the management of first party bank, Mumbai for non-absorption of workmen engaged through contractors in services of the first party bank. The agreement was arrived at and the contract workers were absorbed in the service of Central office and Mumbai Main Branch of the first party bank. However, the first party bank has failed to absorb the contact employees working in Pune and were discriminated in same situation. Therefore, the union namely Thekedar Kamgar Sangh has made demand of absorption of second party workman and other workers. The said union has filed writ petition bearing No. 6247 of 1998 before Hon'ble Bombay High Court. The said petition was disposed of in the year 2006 in view of law laid down in case of Steel Authority of India. Since 1998, the first party bank has stopped paying wages to the second party workman through the contractor and has started direct payment to the second party workman. There is no contractor since 1998 and the wages were directly paid by Pune Zonal office of the first party bank. Even after disposal of the said writ petition the second party workman was in service and wages were paid to her directly by the first party bank.

4. It is contention of the second party workman that she was in continuous service and had put continuously 240 days and more continuous service in every completed year of the service. However, the first party bank has terminated the services of the second party workman without following the procedure laid down in section 25-F of I.D. Act, 1947. Therefore the said termination is illegal, improper, arbitrary and unjust. It also amounts to unfair labour practices. The second party workman is therefore asking to declare that the termination of her services by the first party bank is illegal. She is also asking for re-instatement with continuity of service and all other consequential benefits from the date of termination till actual date of re-instatement along with interest and cost.

5. First party bank has resisted the claim by filing written statement Ex.7. According to the first party bank, the bank had engaged the contractor named M/s. Golden Enterprises since June 1981 who was entrusted with the job of house-keeping at the Zonal office, located at East Street, Gulmohar, Pune and also at the bank's residential quarters namely Madhuban Bank House and Ashirwad Bldg. at Nagar Road, Pune. The bank was making payment to the contractor for the service rendered to the bank and the contractor was in turn effect the payment to the workers engaged by him for carrying out the job given to him by the bank. The said contractor abandoned the contract in November 1998 and ran away. The bank terminated the contract with M/s. Golden Enterprises sometimes in 1999 – 2000. However, with reference to the letter and sprit of the order of Hon'ble Bombay High Court dated 21.3.2006, the bank continued to engage the contract labours for doing the house-keeping jobs at the bank premises. Bank used to give money to Shri Selvam, the Supervisor against the production of the bills. Subsequently, there was inter-se dispute and the contract labours requested bank to pay money directly to them. Accordingly, the arrangement was worked out whereby Shri Selvam used to submit bills and bank credited the amount to the account of each contract labour.

6. It is also contention of the first party bank that on 10.9.2010 the bank published tender notice in local newspaper for maintenance and house-keeping of the banks premises. The bank also suggested the contract labours to form a society, partnership firm or a company for participating in the tender process. Contract labours did not pay heed to the suggestion made by the bank. The tender process was completed on 16.12.2011 and the contract for maintenance and house-keeping of the bank premises was awarded to contractor who had quoted the lowest rates. The new contractor displayed the notice on the bank's notice board stating that he was given contract for maintenance and house-keeping of the banks premises and invited those who were interested to work with him to approach him. However, the concerned workman and other workers did not avail this opportunity.

7. It is also contention of the first party bank that there is no employer-employee relationship between the bank and concerned workman. The tribunal has no jurisdiction to adjudicate the dispute in question. Even as per order in writ petition bearing No. 6247 of 1998 of Hon'ble Bombay High Court, the concerned workman did not approach the competent authority to get the matter referred to tribunal for adjudication and as such dispute referred for adjudication in the present reference has been raised belatedly. It is quite stale. The reference is not maintainable on that ground.

8. According to the first party bank, the concerned workman was engaged by the contractor named M/s. Golden Enterprises. The bank was making payment to the said contractor who in turn was effecting the payment to the workmen engaged by him and therefore the claim of concerned workman that she was engaged by the bank is not maintainable. It is, thus, contention of the bank that it has not discriminated the contract employees working at Pune and therefore the claim of the workman is completely untenable.

9. It is also contention of the first party bank that provisions of section 25-F of I.D. Act, 1947 are not applicable in the factual matrix of the case since the service of the concerned workman automatically came to an end after new contractor was engaged by the bank after duly following tender process.

10. It is then contention of the first party bank that the settlement / agreement that might have been reached at Mumbai has no relation whatsoever with the present dispute and the workman concerned cannot base her claim on the basis of settlement entered into in a different case. On this premises, the first party bank has sought rejection of the reference.

11. Following issues are framed at Ex.8. I reproduce the issues along with my findings thereon for the reasons to follow:

Sr. No.	Issues	Findings
1	Whether the reference is maintainable ?	Yes
2.	Whether there exists employer-employer relationship between the first party bank & concerned workman?	No
3.	Whether the action of the management of State Bank of India in terminating the services of Smt. Asha Hambir Gaikwad w.e.f. 16/01/2012 is legal and justified ?	Yes
4.	If not, whether the concerned workman is entitled to be reinstated in the services of first party with continuity of service and all other consequential benefits ?	No
3.	What Order ?	As per final order

Reasons

Issue No.1 :-

12. The Learned Counsel for the first party bank submitted that admittedly the union namely Thekedar Kamgar Sangh has made demand of absorption of second party workman and other workers. The said union has filed writ petition bearing No. 6247 of 1998 before Hon'ble Bombay High Court. The main prayer of the petitioner was for issuance of writ of mandamus to the bank for regularizing the services of the concerned workers in the banks service. He submits that the said writ petition wad disposed of by the Division Bench of Hon'ble Bombay High Court vide order dated 9.3.2006. In the said order the Hon'ble Bombay High Court made it clear that in view of law laid down by the Hon'ble Supreme Court of India in Steel Authority of India & Ors. V/S. National Union Waterfront Workers & Ors., the relief claimed in the petition cannot be granted and that only remedy available to the petitioner was to seek a reference to the tribunal. Accordingly, the petitioners were given liberty to make necessary application to the competent authority within two weeks from the date of order and the competent authority was directed to make reference as expeditiously as possible and in any case within a period of two months from the receipt of application of the petitioners. Submission is to the effect that the petitioners in the writ petition did not approach the competent authority to get the matter referred to the tribunal for adjudication within time. The contact labours of M/s. Golden Enterprises filed industrial dispute before the Labour Commissioner, Pune through Zilla Mazdoor Sangh vide their letter dated 23.12.2011. As such the dispute referred for adjudication in the present reference is belated i.e. after about 7 years from the date of order of the Hon'ble Bombay High Court. In view of this the submission is that the reference is not maintainable.

13. The Learned Counsel for the first party bank seeks to rely on the decision in case of Nedungadi Bank Ltd. V/S. K.P. Madhavankutty & Ors. 2000 (II SCC 455) to submit that the power of the appropriate government to exercise its powers under section 10 of the I.D. Act, 1947 is to be exercised reasonably and in a rational manner. There appears to be no rational basis on which the Central Govt. has exercised the powers in this case after a lapse of about 7 years of the order of the Hon'ble Bombay High Court. As such the dispute is stale and could not be the subject matter of the reference under section 10 of the I.D. Act, 1947.

14. He also seeks to rely on the decision in case of Reserve Bank of India V/S. Gopinath Sharma & Anr. 2006 (6 SCC 221) to submit that delay of 4 years in raising the dispute even after re-employment of the most of the workmen was held to be fatal.

15. He then seeks to rely on the decision in case of State of Karnataka & Anr. V/S. Ravi Kumar 2009 III LLJ (206 SC) to submit that 14 years delay to challenge the termination was stale reference and the reference ought to have been rejected on the ground alone.

16. However, in view of the facts of the present case it is to be seen whether the second party workman and other workers were diligent in raising the dispute before competent authority. We have document at Page 2 of list of document dated 11.3.2016. It is a copy of the letter dated 31.5.2006 (Ex.15) addressed to the Dy. Commissioner of Labour, Pune requesting him to intervene in the dispute and making reference within the time prescribed by the Hon'ble Bombay High Court. That would show that Thekedar Kamgar Sangh has made an application for making the reference within time prescribed by the Hon'ble Bombay High Court.

17. So far contention go, it is also a contention of the second party workman that even after the disposal of the said writ petition second party workman was in service and the wages were paid by the first party bank to her directly. As per her contention, the first party bank has terminated the services of the second party workman and as such the

dispute was raised by the second party workman for regularization of the services of the concerned workman. It is the submission of the second party workman that the reference has not been arisen out of the demand of the union but the said reference has arisen out of the demand of the individual workman. The demand is not for regularization but the demand is for re-instatement of service. In view of these facts, it can be said that the individual workman has made the demand for regularization of her service and the reference has arisen out of her demand. Even before that in 2006 it is the union who has made application to the Dy. Commissioner of Labour, Pune requesting him to intervene into the dispute and make the reference within the time prescribed by the Hon'ble Bombay High Court. The said letter dated 31.5.2006 is at Ex.15. Therefore it can be said that the union was diligent in making the reference but then subsequently the demand is made by the individual workman for re-instatement and not for regularization. It cannot be said therefore that the reference is belated or otherwise it is stale and not maintainable. This point is therefore answered accordingly in negative.

Issue Nos.2 & 3:-

18. This is the main contentions issue. At the first brush I would observe that admittedly M/s. Golden Enterprises was engaged by the bank as a contractor since 1981 for doing house-keeping at Pune Zonal office and bank's quarters at Pune. In her evidence also the second party workman has stated that she has joined the services in 1992 and initially her name was shown on the muster of M/s. Golden Enterprises. She admits in her evidence that from 1981, M/s. Golden Enterprises was doing house-keeping and maintenance work for State Bank of India in Mumbai and Pune. She then admits that M/s. Golden Enterprises has abandoned the contract in November 1998 and the trade union namely Thekedar Kamgar Sangh has filed writ petition bearing No. 6247 of 1998 on behalf of the contract workers in the Hon'ble Bombay High Court. In this writ petition the petitioners have made averments categorically that they have been employed by M/s. Golden Enterprises. In view of above categorical and clear admission, the second party workman involved in the present reference cannot take a contradictory and inconsistent plea and cannot claim employer-employee relationship with the first party bank.

19. Even then the Learned Counsel for the second party workman submitted that after termination of the contract in between the first party bank and M/s. Golden Enterprises, second party workman was continued in service and the workers were directly paid by the bank at the same daily wages rate which was paid by the contractor. Submission is to the effect that the contract workers of M/s. Golden Enterprises were engaged by the State Bank of India and therefore they cannot be treated as contract employees because the contract of the contractor M/s. Golden Enterprises with the bank was cancelled and since cancellation of the contract they were continued to be in the service which would show that first party bank was the principal employer.

20. In this respect, if we see the evidence of the concerned workman, she admits that in the writ petition it was categorically shown that the contract labours were employed by M/s. Golden Enterprises and they are working on behalf of the M/s. Golden Enterprises in the premises of bank at Pune. Admittedly, in the statement of claim in para 3(a), she and other workers were shown on the muster of M/s. Golden Enterprises. It is admitted by her that before 1998 M/s. Golden Enterprises use to make payment to them. She even admits that she and other workers were not under the disciplinary control of the bank. Admittedly they were not getting the facility as available to the other bank employees. In view of this it can be said that the concerned workman being the employee of the contractor, the ultimate supervision and control was of the contractor.

21. In this respect the evidence has come on record that one Shri Selvam used to submit the bills in respect of work of concerned workman and other workers and then the bank used to credit the amount in the account of each of the contract labour. The question is whether the said arrangement which was worked out is sufficient to show and establish the employer-employer relationship in between the concerned workman and the first party bank. When initially the concerned workman was engaged by the contractor and after termination of the contract in between the said contractor and the bank she has been continued with such arrangement in respect of payment of wages to her by the bank by depositing her wages directly in her account after the production of bills by the said Shri Selvam, then that would not be sufficient to say that first party bank being the principal employer was making payment of wages to the concerned workman. Merely because the amount was credited to the workman/s account under circumstances narrated above does not in any way alter the factual position that the concerned workman was a labour contractor and not an employee of the bank.

22. I say so because there is well defined procedure in the bank for recruitment and employment in the bank is done by inserting advertisement, holding competitive test for the employment, selection procedure through merit etc. etc. No such procedure was adopted at the time of engagement of the concerned workman as a Sweeper. The fact remains therefore that she was a contract labour for doing the house-keeping job at the banks premises and therefore she continued to be a contract labour even after the contract between said contractor and bank was terminated somewhere in 1999-2000.

23. The Learned Counsel for the first party bank submitted that the bank continued to engage contract labours for doing the house-keeping jobs at the bank premises in view or order of Hon'ble Bombay High Court dated 21.3.2006 whereby the Hon'ble Bombay High Court in view of petition by the petitioners took out a motion for clarification of

order passed on 9.3.2006 by the Hon'ble Bombay High Court and also protection till reference is made at the instance of the petitioners to the tribunal for adjudication. The Hon'ble Bombay High Court observed that they do not see any protection granted by the court which was sought to be continued but then the Hon'ble Bombay High Court observed that the contract labours employed by the bank should be continued subject to the requirements and by following statutory obligations including payment of wages etc. and they need not be dis-continued only because the petition has been disposed of. That would show that in view of this order passed by the Hon'ble Bombay High Court the concerned workman was continued in services as per the requirement and after cancellation of contract with first party bank and the contractor namely M/s. Golden Enterprises, the subsequent arrangement was made in respect of payment of wages of the concerned employees who were engaged by the contractor and therefore the payment was made to them by depositing the amount in their bank accounts on submission of the bills by one shri Selvam. That would again show that the concerned workman was not considered to be the employee of the first party bank. All the while she was continued to be contract labour even after the order of Hon'ble Bombay High Court till her services automatically came to an end.

24. Even then the Learned Counsel for the second party workman submitted that the employees were the employees of M/s. Golden Enterprises till that contract was not abandoned or cancelled. After cancellation of the contract in 1999-2000 M/s. Golden Enterprises ceased to be contractor and these employees were ceased to the employees of M/s. Golden Enterprises. He submits that Hon'ble Bombay High Court has not directed to keep contract employees of M/s. Golden Enterprises in service in orders passed on 19.1.1999 and 1.2.1999. Therefore the relation between the S.B.I. and M/s. Golden Enterprises as principal employer and the contractor came to an end and after cancellation of the contract in 1999-2000 the services of the employees employed by M/s. Golden Enterprises for performing the job of cleaning, sweeping, house-keeping of S.B.I. premises automatically came to an end. These employees were ineligible to work with S.B.I. as contract workers of M/s. Golden Enterprises. So after termination of contract of M/s. Golden Enterprises and S.B.I., by oral orders by S.B.I. the employees were appointed to carry out the house-keeping, cleaning, sweeping work and then since that date till the date of termination the concerned workman were employed continuously by S.B.I. They worked for 10 – 12 years continuously on the basis of said oral order of S.B.I. and therefore there exists employer-employee relationship in between bank and concerned employees.

25. This submission is other way round and is not acceptable. A definite stand was taken by the concerned employees in the WP No. 6247/1998 that they are employees employed by M/s. Golden Enterprises which has been given a contract of house-keeping of S.B.I., Pune, Regional Office Pune has been employing several workers for carrying out the same work. It would thus not lie in their mouth to take contradictory and inconsistent plea that they are the workmen of the principal employer i.e. bank. To raise such a mutually destructive plea is impermissible in law. Such mutually destructive plea should not be allowed to be raised. Common law principle of estoppel waiver and acquaintance are applicable in the industrial adjudication. In the context the hand can be laid on decision in case of Steel Authority of India V/S. Union of India 2006 (12 SC 243) wherein in para 28 of the judgment it has been observed that such inconsistent plea is not permissible.

26. On going through the order of Hon'ble Bombay High Court in the said WP No. 6247/1998 it has been observed as follows:

"We have gone through the orders passed by this court on 19.1.1999 and 1.2.1999 and we do not see any protection granted by this court and as sought to be continued. Undoubtedly the contract labours employed by Respondent bank shall be continued subject to the requirement and by following the statutory obligations including the payment of wages etc. and they need not be dis-continued only because this petition has been disposed of."

27. In view of these observations of Hon'ble Bombay High Court even after the termination of contract in between M/s. Golden Enterprises and the bank the concerned workmen were continued and were paid wages by the bank by depositing the wages in their respective bank accounts. That does not mean that the bank has orally appointed them as its employees on regular basis even without following the statutory procedure.

28. Learned Counsel for the concerned workman/union submitted that the bank was paying bonus to the concerned employees. He refers to Ex.17 to submit that the bank was making payment through bankers' cheque. Therefore the submission is that as per Section 10 of Payment of Bonus Act, the employer is bound to pay the bonus. Section 2(14) of Payment of Bonus Act defines employer and it says that in relation to any other establishment the person who or the authority which was the ultimate control over the affairs of the establishment and the managing agent is the employer. He submits that as per section 21(4) the principal employer is not liable to pay bonus, gratuity as wages does not include it. He is liable to pay only wages if the contractors fails to pay wages. Since S.B.I. has paid bonus to the concerned employees it can be said that S.B.I. has engaged concerned workman directly and the bank is the employer of the concerned workmen who are covered under the Payment of Bonus Act.

29. This submission is also not acceptable since in the decision in case of Indian Iron & Steel Co. Ltd. V/S. State of West Bengal & Ors. 2011 (4 LLM 158), Calcutta, it has been observed in para 20 of the judgment that,

"There is no warrant for the proposition that in every case where the bonus is paid to an employee, the same is an indicator of the employee being a regular employee. The company is an establishment in public sector. The provisions

of bonus act would apply to it only if it satisfies the conditions mentioned in sub section (1) of section 20 thereof. If indeed the company was obliged to pay bonus to its regular employees and had in the process shared its profits with the contract labours by paying the bonus in terms of bonus act, the very action of extending benefits of the social welfare legislation to said labours would not change their status to regular employees of the company."

30. Next submission of Learned Counsel for the concerned workman is that the contractor did not obtain necessary licence. In this respect also it is necessary to refer the observations in para 20 of the citation cited supra. It has been observed that if at all the contractor did not obtain the licence it would open to the authority concerned to take action against it under section 23 of CLRA Act but for that the company cannot be penalized and the contract labours employed by such erring contractor be thrust upon it. Non-obtaintion of licence without anything more would not clothe the Respondent with any legal right to claim that they are the direct employees of the company and hence entitled to continue in service despite the contract with KNYCEE not being renewed.

In view of this legal position it can be said that even if the contract between the bank and the contractor namely M/s. Golden Enterprises was cancelled and could not be renewed that does not give right to the concerned employee /union to claim that they are direct employees of the bank.

31. Next submission of Learned Counsel for the concerned workman is that there is no documentary evidence to show that Shri Selvam was the contractor after the contract of M/s. Golden Enterprises was abandoned. He submits that before RLC the settlement of Minimum wages was reached between the bank and workman/union and the bank has accepted to pay the minimum wages to the concerned workman. In view of that the submission is that after the contract with M/s. Golden Enterprises was abandoned, it was the bank who paid the wages to the concerned employees by depositing the wages in their bank account and thereby the bank has accepted it to be the employer of the concerned workman.

32. It is no doubt true that there is no documentary evidence to prove that Selvam was submitting the bills on the basis of which the wages were deposited in the bank account of each workman. But then Selvam was one of the worker along with other employees. Even the workman herself has admitted in her cross-examination that due to inter-se dispute between the workers they requested the bank to make the direct payment and arrangement was worked out. In view of that it can be said that some arrangement was worked out in respect of payment to these workmen after the contract between the bank and M/s. Golden Enterprises was abandoned.

33. In view of this, it is the submission of Learned Counsel for the bank that the workmen concerned were continued to be engaged by K.P. Selvam as a contract labour after original contractor ran away and no wages were directly paid to them by the bank. In view of admission of the concerned workman that the arrangement was worked out after the inter-se dispute between the workers it can be very well said that the concerned workmen were paid wages directly in their bank account by way of this arrangement which was worked out. Therefore that will not give them the status of regular employees since initially they were engaged by the contractor and then there is no documentary evidence to show that the concerned workman was appointed by the bank.

34. It is then submission of Learned Counsel for the concerned workman that the concerned workman was doing the work of sweeping and cleaning under the direction, control and supervision of first party bank. He refers to copies of attendance register to submit that those registers are maintained by the bank and it bears the signatures of Waze, Kulkarni and Bhosale who are the bank officers. In view of this it is submitted that the bank officers were having control over the work carried out by the concerned employees.

35. In his cross-examination witness Sudhir Ramchandra has denied the suggestion to the effect that the bank was having control over the work carried out by the concerned employees and that Mr. Jatar, Sudhir Pawar, Dube, Karkhanis were supervising the work and were allotting the work to the concerned employees. Even if some anxious consideration is given to this submission of Learned Counsel for the concerned workman then also it can be said that merely because the contract labour work is under the supervisions of officers of principal employer it cannot be taken as evidence of direct employment under the principal employer. In the decision in case of International Airport Authority of India V/S. International Air Cargo Union and Anr. 2009 (13 SCC 374) it has been observed in para 54 of the judgment that,

> "Exercise of some control over the activities of the contract labour while they discharge their duties as labours is inevitable and such exercise is not sufficient to hold that the contract labour will become the direct employee of the principal employer."

36. In the light of above observations I hold that there does not exist employer-employee relationship between the first party bank and second party workman. But then it is submission of the Learned Counsel for the concerned workman that the concerned workman had worked for 240 days and continuously in every completed year of service and her services came to be terminated without following the procedure laid down under section 25 of I.D. Act, 1947. In this view the submission is that the said termination is illegal and improper.

37. This submission is also not acceptable since the fact remains that the concerned workman was engaged by the contractor and after termination of the contract her services came to an end.

38. For it is explicit from the evidence of Sudhir Jalanwar, the witness of the bank that on 10.11.2010 the bank published tender notice in local newspapers for maintenance and house-keeping of bank premises. The bank also suggested the contract labours to form a society, partnership firm or a company for participating in the tender process. Contract labours did not pay heed to the suggestion made by the bank. The tender process was completed on 16.12.2011 and the contract for maintenance and house-keeping of the bank premises was awarded to contractor who had quoted the lowest rates. The new contractor displayed the notice on the bank's notice board stating that he was given contract for maintenance and house-keeping of the banks premises and invited those who were interested to work with him to approach him. However, the concerned workman and other workers did not avail this opportunity to work under the new contractor. The fact remains therefore that after termination of earlier contract the services of the concerned workman automatically came to an end.

39. In view of this, the Learned Counsel for the first party bank submitted that though concerned workman had worked for 240 days in a year, her appointment was not from the regular stream of appointment and therefore is not entitled for regularization. He seeks to rely on the decision in case of Dena Bank V/s. Ashraf Yalu Shaikh 2009 III CLR 426 to submit that since the appointment of the concerned workman was not from the regular stream of appointment they are not entitled to reinstatement but only compensation, as envisaged under section 25 of I.D. Act, 1947.

40. So far the submission of the concerned workman to the effect that first party bank has terminated her services without following the procedure laid down in section 25-F of I.D. Act, 1947, it can be said that there is no employer-employee relationship between the bank and workman and that the services of the workman automatically came to an end after the new contractor was engaged by the bank after following tender process. It is not therefore possible to accept the submission of Learned Counsel for the concerned workman that the termination is illegal on account that it was without following the procedure laid down in section 25-F of I.D. Act, 1947.

41. Realising this difficulty, Learned Counsel for the concerned workman submitted that by way of settlement, the similarly situated workmen and employees in Mumbai were absorbed in services of the bank and therefore the first party bank has violated the principles of equity before law and gave different treatment to some set of employees in Mumbai by neglecting section 12(3) and 18(3) of I.D. Act, 1947 and therefore the termination is illegal. The submission is again other way round. There is no evidence of such discrimination. If any such agreement has been reached then it has no relation with the present dispute. The present dispute is squarely covered by W.P. No. 6247/1998 and the same has to be dealt with in the light of order passed by Hon'ble Bombay High Court in the said writ petition. In view of that the concerned workman cannot base a claim on the basis of settlement entered into in a different matter under different circumstances.

42. Considering all these facts, I hold that action of management in terminating the services of concerned workman w.e.f. 6.1.2012 is legal and justified. The above issues are therefore answered accordingly as against each of them in terms of above observations.

Issue No. 4 & 5.

43. In view of my finding the above issues, the concerned workman is not entitled to be re-instated in the services of first party bank with continuity of service and other consequential benefits. He is not entitled to relief claimed. Thus order.

ORDER

Reference is rejected with no order as to costs.

M. V. DESHPANDE, Presiding Officer

Date: 14.07.2017

नई दिल्ली, 27 नवम्बर, 2017

का.आ. 2738.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2 मुम्बई के पंचाट (संदर्भ संख्या 31/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.11.2017 को प्राप्त हुआ था।

[सं. एल-12012/80/2012-आईआर (बी-I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 27th November, 2017

S.O. 2738.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 31/2013) of the Central Government Industrial Tribunal/Labour Court No. 2, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the

management of State Bank of India and their workmen, which was received by the Central Government on 17.11.2017.

[No. L-12012/80/2012-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT : M. V. Deshpande**,** Presiding Officer

REFERENCE NO.CGIT-2/31 of 2013

EMPLOYERS IN RELATION TO THE MANAGEMENT OF STATE BANK OF INDIA

Assistant General Manager,
State Bank of India, Zonal Office,
Admn. Office, Sharda Chamber,
7th Floor, 386/2, Shankarseth Road,
Pune – 411 037.

AND

THEIR WORKMAN

Shri Laxman Shravan Kamble,
1325, New Modi Khana,
Opp. Poona College,
Pune – 411 030.

APPEARANCES:

FOR THE EMPLOYER : Shri M.G. Nadkarni, Advocate
FOR THE WORKMAN : Mr. Umesh Vishwad, Advocate

Mumbai, dated the 20th July, 2017

AWARD

1. This is reference made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide Government of India, Ministry of Labour & Employment, New Delhi vide its order No. L-12012/80/2012 – IR (B-I) dated 09.05.2013. The terms of reference given in the schedule are as follows :

> "*Whether the action of the management of State Bank of India, Zonal Office, Pune in terminating the services of Shri Laxman Shravan Kamble w.e.f. 16.1.2012 is legal and justified ? If not, to what relief the workman is entitled to ?*"

2. After the receipt of the reference, both the parties were served with the notices. They appeared through their respective representatives. Second party workman filed statement of claim Ex.6. According to the concerned workman, he was working with the first party bank since 1987 as a Sweeper. He has worked continuously from 1987 to 16.1.2012 with the first party bank. He was doing the work of cleaning and sweeping the premises of Zonal Office Pune and the officers' quarters of the first party bank under direct control and supervision of the first party bank. His work is regular and perennial. The first party bank was making payment to him. As such there is direct employer-employee relationship between first party bank and second party workman.

3. According to the second party workman, a group of workmen raised the industrial dispute against the management of first party bank, Mumbai for non-absorption of workmen engaged through contractors in services of the first party bank. The agreement was arrived at and the contract workers were absorbed in the service of Central office and Mumbai Main Branch of the first party bank. However, the first party bank has failed to absorb the contact employees working in Pune and were discriminated in same situation. Therefore, the union namely Thekedar Kamgar Sangh has made demand of absorption of second party workman and other workers. The said union has filed writ petition bearing No. 6247 of 1998 before Hon'ble Bombay High Court. The said petition was disposed of in the year 2006 in view of law laid down in case of Steel Authority of India. Since 1998, the first party bank has stopped paying wages to the second party workman through the contractor and has started direct payment to the second party workman. There is no contractor since 1998 and the wages were directly paid by Pune Zonal office of the first party bank. Even after disposal of the said writ petition the second party workman was in service and wages were paid to him directly by the first party bank.

4. It is contention of the second party workman that He was in continuous service and had put continuously 240 days and more continuous service in every completed year of the service. However, the first party bank has terminated the services of the second party workman without following the procedure laid down in section 25-F of I.D. Act, 1947. Therefore the said termination is illegal, improper, arbitrary and unjust. It also amounts to unfair labour practices. The second party workman is therefore asking to declare that the termination of his services by the first party bank is illegal. He is also asking for re-instatement with continuity of service and all other consequential benefits from the date of termination till actual date of re-instatement along with interest and cost.

5. First party bank has resisted the claim by filing written statement Ex.7. According to the first party bank, the bank had engaged the contractor named M/s. Golden Enterprises since June 1981 who was entrusted with the job of house-keeping at the Zonal office, located at East Street, Gulmohar, Pune and also at the bank's residential quarters namely Madhuban Bank House and Ashirwad Bldg. at Nagar Road, Pune. The bank was making payment to the contractor for the service rendered to the bank and the contractor was in turn effect the payment to the workers engaged by him for carrying out the job given to him by the bank. The said contractor abandoned the contract in November 1998 and ran away. The bank terminated the contract with M/s. Golden Enterprises sometimes in 1999 – 2000. However, with reference to the letter and sprit of the order of Hon'ble Bombay High Court dated 21.3.2006, the bank continued to engage the contract labours for doing the house-keeping jobs at the bank premises. Bank used to give money to Shri Selvam, the Supervisor against the production of the bills. Subsequently, there was inter-se dispute and the contract labours requested bank to pay money directly to them. Accordingly, the arrangement was worked out whereby Shri Selvam used to submit bills and bank credited the amount to the account of each contract labour.

6. It is also contention of the first party bank that on 10.9.2010 the bank publiHed tender notice in local newspaper for maintenance and house-keeping of the banks premises. The bank also suggested the contract labours to form a society, partnership firm or a company for participating in the tender process. Contract labours did not pay heed to the suggestion made by the bank. The tender process was completed on 16.12.2011 and the contract for maintenance and house-keeping of the bank premises was awarded to contractor who had quoted the lowest rates. The new contractor displayed the notice on the bank's notice board stating that he was given contract for maintenance and house-keeping of the banks premises and invited those who were interested to work with him to approach him. However, the concerned workman and other workers did not avail this opportunity.

7. It is also contention of the first party bank that there is no employer-employee relationship between the bank and concerned workman. The tribunal has no jurisdiction to adjudicate the dispute in question. Even as per order in writ petition bearing No. 6247 of 1998 of Hon'ble Bombay High Court, the concerned workman did not approach the competent authority to get the matter referred to tribunal for adjudication and as such dispute referred for adjudication in the present reference has been raised belatedly. It is quite stale. The reference is not maintainable on that ground.

8. According to the first party bank, the concerned workman was engaged by the contractor named M/s. Golden Enterprises. The bank was making payment to the said contractor who in turn was effecting the payment to the workmen engaged by him and therefore the claim of concerned workman that He was engaged by the bank is not maintainable. It is, thus, contention of the bank that it has not discriminated the contract employees working at Pune and therefore the claim of the workman is completely untenable.

9. It is also contention of the first party bank that provisions of section 25-F of I.D. Act, 1947 are not applicable in the factual matrix of the case since the service of the concerned workman automatically came to an end after new contractor was engaged by the bank after duly following tender process.

10. It is then contention of the first party bank that the settlement / agreement that might have been reached at Mumbai has no relation whatsoever with the present dispute and the workman concerned cannot base his claim on the basis of settlement entered into in a different case. On this premises, the first party bank has sought rejection of the reference.

11. Following issues are framed at Ex.8. I reproduce the issues along with my findings thereon for the reasons to follow:

Sr. No.	Issues	Findings
1	Whether the reference is maintainable ?	Yes
2.	Whether there exists employer-employer relationship between the first party bank & concerned workman?	No
3.	Whether the action of the management of State Bank of India in terminating the services of Shri Laxman Shravan Kamble w.e.f. 16/01/2012 is legal and justified ?	Yes
4.	If not, whether the concerned workman is entitled to be reinstated in the services of first party with continuity of service and all other consequential benefits ?	No
5.	What Order ?	As per final order

Reasons

Issue No.1 :-

12. The Learned Counsel for the first party bank submitted that admittedly the union namely Thekedar Kamgar Sangh has made demand of absorption of second party workman and other workers. The said union has filed writ petition bearing No. 6247 of 1998 before Hon'ble Bombay High Court. The main prayer of the petitioner was for issuance of writ of mandamus to the bank for regularizing the services of the concerned workers in the banks service. He submits that the said writ petition wad disposed of by the Division Bench of Hon'ble Bombay High Court vide order dated 9.3.2006. In the said order the Hon'ble Bombay High Court made it clear that in view of law laid down by the Hon'ble Supreme Court of India in Steel Authority of India & Ors. V/s. National Union Waterfront Workers & Ors., the relief claimed in the petition cannot be granted and that only remedy available to the petitioner was to seek a reference to the tribunal. Accordingly, the petitioners were given liberty to make necessary application to the competent authority within two weeks from the date of order and the competent authority was directed to make reference as expeditiously as possible and in any case within a period of two months from the receipt of application of the petitioners. Submission is to the effect that the petitioners in the writ petition did not approach the competent authority to get the matter referred to the tribunal for adjudication within time. The contact labours of M/s. Golden Enterprises filed industrial dispute before the Labour Commissioner, Pune through Zilla Mazdoor Sangh vide their letter dated 23.12.2011. As such the dispute referred for adjudication in the present reference is belated i.e. after about 7 years from the date of order of the Hon'ble Bombay High Court. In view of this the submission is that the reference is not maintainable.

13. The Learned Counsel for the first party bank seeks to rely on the decision in case of Nedungadi Bank Ltd. V/S. K.P. Madhavankutty & Ors. 2000 (II SCC 455) to submit that the power of the appropriate government to exercise its powers under section 10 of the I.D. Act, 1947 is to be exercised reasonably and in a rational manner. There appears to be no rational basis on which the Central Govt. has exercised the powers in this case after a lapse of about 7 years of the order of the Hon'ble Bombay High Court. As such the dispute is stale and could not be the subject matter of the reference under section 10 of the I.D. Act, 1947.

14. He also seeks to rely on the decision in case of Reserve Bank of India V/s. Gopinath Sharma & Anr. 2006 (6 SCC 221) to submit that delay of 4 years in raising the dispute even after re-employment of the most of the workmen was held to be fatal.

15. He then seeks to rely on the decision in case of State of Karnataka & Anr. V/s. Ravi Kumar 2009 III LLJ (206 SC) to submit that 14 years delay to challenge the termination was stale reference and the reference ought to have been rejected on the ground alone.

16. However, in view of the facts of the present case it is to be seen whether the second party workman and other workers were diligent in raising the dispute before competent authority. We have document at Page 2 of list of document dated 11.3.2016. It is a copy of the letter dated 31.5.2006 (Ex.15) addressed to the Dy. Commissioner of Labour, Pune requesting him to intervene in the dispute and making reference within the time prescribed by the Hon'ble Bombay High Court. That would show that Thekedar Kamgar Sangh has made an application for making the reference within time prescribed by the Hon'ble Bombay High Court.

17. So far contention go, it is also a contention of the second party workman that even after the disposal of the said writ petition second party workman was in service and the wages were paid by the first party bank to him directly. As per his contention, the first party bank has terminated the services of the second party workman and as such the dispute was raised by the second party workman for regularization of the services of the concerned workman. It is the submission of the second party workman that the reference has not been arisen out of the demand of the union but the said reference has arisen out of the demand of the individual workman. The demand is not for regularization but the demand is for re-instatement of service. In view of these facts, it can be said that the individual workman has made the demand for regularization of his service and the reference has arisen out of his demand. Even before that in 2006 it is the union who has made application to the Dy. Commissioner of Labour, Pune requesting him to intervene into the dispute and make the reference within the time prescribed by the Hon'ble Bombay High Court. The said letter dated 31.5.2006 is at Ex.15. Therefore it can be said that the union was diligent in making the reference but then subsequently the demand is made by the individual workman for re-instatement and not for regularization. It cannot be said therefore that the reference is belated or otherwise it is stale and not maintainable. This point is therefore answered accordingly in negative.

Issue No.2 & 3:-

18. This is the main contentions issue. At the first brush I would observe that admittedly M/s. Golden Enterprises was engaged by the bank as a contractor since 1981 for doing house-keeping at Pune Zonal office and bank's quarters at Pune. In his evidence also the second party workman has stated that he has joined the services in 1998. He then admits that M/s. Golden Enterprises has abandoned the contract in November 1998 and the trade union namely Thekedar Kamgar Sangh has filed writ petition bearing No. 6247 of 1998 on behalf of the contract workers in the

Hon'ble Bombay High Court. Admittedly, in the writ petition they have made averments categorically that they have been employed by M/s. Golden Enterprises. In para 3(a) of statement of claim it is stated that they were on the muster of M/s. Golden Enterprises. It is admitted that they were not under the disciplinary control of the bank. Even it is admitted that they were not getting the facilities as available to the other bank employees. In view of above categorical and clear admission, the second party workman involved in the present reference cannot take a contradictory and inconsistent plea and cannot claim employer-employee relationship with the first party bank.

19. Even then the Learned Counsel for the second party workman submitted that after termination of the contract in between the first party bank and M/s. Golden Enterprises, second party workman was continued in service and the workers were directly paid by the bank at the same daily wages rate which was paid by the contractor. Submission is to the effect that the contract workers of M/s. Golden Enterprises were engaged by the State Bank of India and therefore they cannot be treated as contract employees because the contract of the contractor M/s. Golden Enterprises with the bank was cancelled and since cancellation of the contract they were continued to be in the service which would show that first party bank was the principal employer.

20. In this respect, if we see the evidence of the concerned workman, He admits that in the writ petition it was categorically shown that the contract labours were employed by M/s. Golden Enterprises and they are working on behalf of the M/s. Golden Enterprises in the premises of bank at Pune. Admittedly, in the statement of claim in para 3(a), He and other workers were shown on the muster of M/s. Golden Enterprises. It is admitted by him that before 1998 M/s. Golden Enterprises use to make payment to them. He even admits that He and other workers were not under the disciplinary control of the bank. Admittedly they were not getting the facility as available to the other bank employees. In view of this it can be said that the concerned workman being the employee of the contractor, the ultimate supervision and control was of the contractor.

21. In this respect the evidence has come on record that one Shri Selvam used to submit the bills in respect of work of concerned workman and other workers and then the bank used to credit the amount in the account of each of the contract labour. The question is whether the said arrangement which was worked out is sufficient to show and establish the employer-employer relationship in between the concerned workman and the first party bank. When initially the concerned workman was engaged by the contractor and after termination of the contract in between the said contractor and the bank He has been continued with such arrangement in respect of payment of wages to him by the bank by depositing his wages directly in his account after the production of bills by the said Shri Selvam, then that would not be sufficient to say that first party bank being the principal employer was making payment of wages to the concerned workman. Merely because the amount was credited to the workman/s account under circumstances narrated above does not in any way alter the factual position that the concerned workman was a labour contractor and not an employee of the bank.

22. I say so because there is well defined procedure in the bank for recruitment and employment in the bank is done by inserting advertisement, holding competitive test for the employment, selection procedure through merit etc. etc. No such procedure was adopted at the time of engagement of the concerned workman as a Sweeper. The fact remains therefore that He was a contract labour for doing the house-keeping job at the banks premises and therefore He continued to be a contract labour even after the contract between said contractor and bank was terminated somewhere in 1999-2000.

23. The Learned Counsel for the first party bank submitted that the bank continued to engage contract labours for doing the house-keeping jobs at the bank premises in view or order of Hon'ble Bombay High Court dated 21.3.2006 whereby the Hon'ble Bombay High Court in view of petition by the petitioners took out a motion for clarification of order passed on 9.3.2006 by the Hon'ble Bombay High Court and also protection till reference is made at the instance of the petitioners to the tribunal for adjudication. The Hon'ble Bombay High Court observed that they do not see any protection granted by the court which was sought to be continued but then the Hon'ble Bombay High Court observed that the contract labours employed by the bank should be continued subject to the requirements and by following statutory obligations including payment of wages etc. and they need not be dis-continued only because the petition has been disposed of. That would show that in view of this order passed by the Hon'ble Bombay High Court the concerned workman was continued in services as per the requirement and after cancellation of contract with first party bank and the contractor namely M/s. Golden Enterprises, the subsequent arrangement was made in respect of payment of wages of the concerned employees who were engaged by the contractor and therefore the payment was made to them by depositing the amount in their bank accounts on submission of the bills by one shri Selvam. That would again show that the concerned workman was not considered to be the employee of the first party bank. All the while He was continued to be contract labour even after the order of Hon'ble Bombay High Court till his services automatically came to an end.

24. Even then the Learned Counsel for the second party workman submitted that the employees were the employees of M/s. Golden Enterprises till that contract was not abandoned or cancelled. After cancellation of the contract in 1999-2000 M/s. Golden Enterprises ceased to be contractor and these employees were ceased to the employees of M/s. Golden Enterprises. He submits that Hon'ble Bombay High Court has not directed to keep contract employees of M/s. Golden Enterprises in service in orders passed on 19.1.1999 and 1.2.1999. Therefore the relation

between the S.B.I. and M/s. Golden Enterprises as principal employer and the contractor came to an end and after cancellation of the contract in 1999-2000 the services of the employees employed by M/s. Golden Enterprises for performing the job of cleaning, sweeping, house-keeping of S.B.I. premises automatically came to an end. These employees were ineligible to work with S.B.I. as contract workers of M/s. Golden Enterprises. So after termination of contract of M/s. Golden Enterprises and S.B.I., by oral orders by S.B.I. the employees were appointed to carry out the house-keeping, cleaning, sweeping work and then since that date till the date of termination the concerned workman were employed continuously by S.B.I. They worked for 10 – 12 years continuously on the basis of said oral order of S.B.I. and therefore there exists employer-employee relationship in between bank and concerned employees.

25. This submission is other way round and is not acceptable. A definite stand was taken by the concerned employees in the WP No. 6247/1998 that they are employees employed by M/s. Golden Enterprises which has been given a contract of house-keeping of S.B.I., Pune, Regional Office Pune has been employing several workers for carrying out the same work. It would thus not lie in their mouth to take contradictory and inconsistent plea that they are the workmen of the principal employer i.e. bank. To raise such a mutually destructive plea is impermissible in law. Such mutually destructive plea should not be allowed to be raised. Common law principle of estoppel waiver and acquaintance are applicable in the industrial adjudication. In the context the hand can be laid on decision in case of Steel Authority of India V/S. Union of India 2006 (12 SC 243) wherein in para 28 of the judgment it has been observed that such inconsistent plea is not permissible.

26. On going through the order of Hon'ble Bombay High Court in the said WP No. 6247/1998 it has been observed as follows:

"We have gone through the orders passed by this court on 19.1.1999 and 1.2.1999 and we do not see any protection granted by this court and as sought to be continued. Undoubtedly the contract labours employed by Respondent bank shall be continued subject to the requirement and by following the statutory obligations including the payment of wages etc. and they need not be dis-continued only because this petition has been disposed of."

27. In view of these observations of Hon'ble Bombay High Court even after the termination of contract in between M/s. Golden Enterprises and the bank the concerned workmen were continued and were paid wages by the bank by depositing the wages in their respective bank accounts. That does not mean that the bank has orally appointed them as its employees on regular basis even without following the statutory procedure.

28. Learned Counsel for the concerned workman / union submitted that the bank was paying bonus to the concerned employees. He refers to Ex.17 to submit that the bank was making payment through bankers' cheque. Therefore the submission is that as per Section 10 of Payment of Bonus Act, the employer is bound to pay the bonus. Section 2(14) of Payment of Bonus Act defines employer and it says that in relation to any other establishment the person who or the authority which was the ultimate control over the affairs of the establishment and the managing agent is the employer. He submits that as per section 21(4) the principal employer is not liable to pay bonus, gratuity as wages does not include it. He is liable to pay only wages if the contractors fails to pay wages. Since S.B.I. has paid bonus to the concerned employees it can be said that S.B.I. has engaged concerned workman directly and the bank is the employer of the concerned workmen who are covered under the Payment of Bonus Act.

29. This submission is also not acceptable since in the decision in case of Indian Iron & Steel Co. Ltd. V/S. State of West Bengal & Ors. 2011 (4 LLM 158), Calcutta, it has been observed in para 20 of the judgment that,

"There is no warrant for the proposition that in every case where the bonus is paid to an employee, the same is an indicator of the employee being a regular employee. The company is an establishment in public sector. The provisions of bonus act would apply to it only if it satisfies the conditions mentioned in sub section (1) of section 20 thereof. If indeed the company was obliged to pay bonus to its regular employees and had in the process shared its profits with the contract labours by paying the bonus in terms of bonus act, the very action of extending benefits of the social welfare legislation to said labours would not change their status to regular employees of the company."

30. Next submission of Learned Counsel for the concerned workman is that the contractor did not obtain necessary licence. In this respect also it is necessary to refer the observations in para 20 of the citation cited supra. It has been observed that if at all the contractor did not obtain the licence it would open to the authority concerned to take action against it under section 23 of CLRA Act but for that the company cannot be penalized and the contract labours employed by such erring contractor be thrust upon it. Non-obtaintion of licence without anything more would not clothe the Respondent with any legal right to claim that they are the direct employees of the company and hence entitled to continue in service despite the contract with KNYCEE not being renewed.

In view of this legal position it can be said that even if the contract between the bank and the contractor namely M/s. Golden Enterprises was cancelled and could not be renewed that does not give right to the concerned employee / union to claim that they are direct employees of the bank.

31. Next submission of Learned Counsel for the concerned workman is that there is no documentary evidence to show that Shri Selvam was the contractor after the contract of M/s. Golden Enterprises was abandoned. He submits that before RLC the settlement of Minimum wages was reached between the bank and workman / union and the bank

has accepted to pay the minimum wages to the concerned workman. In view of that the submission is that after the contract with M/s. Golden Enterprises was abandoned, it was the bank who paid the wages to the concerned employees by depositing the wages in their bank account and thereby the bank has accepted it to be the employer of the concerned workman.

32. It is no doubt true that there is no documentary evidence to prove that Selvam was submitting the bills on the basis of which the wages were deposited in the bank account of each workman. But then Selvam was one of the worker along with other employees. Even the workman himself has admitted in his cross-examination that due to inter-se dispute between the workers they requested the bank to make the direct payment and arrangement was worked out. In view of that it can be said that some arrangement was worked out in respect of payment to these workmen after the contract between the bank and M/s. Golden Enterprises was abandoned.

33. In view of this, it is the submission of Learned Counsel for the bank that the workmen concerned were continued to be engaged by K.P. Selvam as a contract labour after original contractor ran away and no wages were directly paid to them by the bank. In view of admission of the concerned workman that the arrangement was worked out after the inter-se dispute between the workers it can be very well said that the concerned workmen were paid wages directly in their bank account by way of this arrangement which was worked out. Therefore that will not give them the status of regular employees since initially they were engaged by the contractor and then there is no documentary evidence to show that the concerned workman was appointed by the bank.

34. It is then submission of Learned Counsel for the concerned workman that the concerned workman was doing the work of sweeping and cleaning under the direction, control and supervision of first party bank. He refers to copies of attendance register to submit that those registers are maintained by the bank and it bears the signatures of Waze, Kulkarni and Bhosale who are the bank officers. In view of this it is submitted that the bank officers were having control over the work carried out by the concerned employees.

35. In his cross examination witness Sudhir Ramchandra has denied the suggestion to the effect that the bank was having control over the work carried out by the concerned employees and that Mr. Jatar, Sudhir Pawar, Dube, Karkhanis were supervising the work and were allotting the work to the concerned employees. Even if some anxious consideration is given to this submission of Learned Counsel for the concerned workman then also it can be said that merely because the contract labour work is under the supervisions of officers of principal employer it cannot be taken as evidence of direct employment under the principal employer. In the decision in case of International Airport Authority of India V/S. International Air Cargo Union and Anr. 2009 (13 SCC 374) it has been observed in para 54 of the judgment that,

"Exercise of some control over the activities of the contract labour while they discharge their duties as labours is inevitable and such exercise is not sufficient to hold that the contract labour will become the direct employee of the principal employer."

36. In the light of above observations I hold that there does not exist employer-employee relationship between the first party bank and second party workman. But then it is submission of the Learned Counsel for the concerned workman that the concerned workman had worked for 240 days and continuously in every completed year of service and his services came to be terminated without following the procedure laid down under section 25 of I.D. Act, 1947. In this view the submission is that the said termination is illegal and improper.

37. This submission is also not acceptable since the fact remains that the concerned workman was engaged by the contractor and after termination of the contract his services came to an end.

38. For it is explicit from the evidence of Sudhir Jalanwar, the witness of the bank that on 10.11.2010 the bank publiHed tender notice in local newspapers for maintenance and house-keeping of bank premises. The bank also suggested the contract labours to form a society, partnership firm or a company for participating in the tender process. Contract labours did not pay heed to the suggestion made by the bank. The tender process was completed on 16.12.2011 and the contract for maintenance and house-keeping of the bank premises was awarded to contractor who had quoted the lowest rates. The new contractor displayed the notice on the bank's notice board stating that he was given contract for maintenance and house-keeping of the banks premises and invited those who were interested to work with him to approach him. However, the concerned workman and other workers did not avail this opportunity to work under the new contractor. The fact remains therefore that after termination of earlier contract the services of the concerned workman automatically came to an end.

39. In view of this, the Learned Counsel for the first party bank submitted that though concerned workman had worked for 240 days in a year, his appointment was not from the regular stream of appointment and therefore is not entitled for regularization. He seeks to rely on the decision in case of Dena Bank V/S. Ashraf Yalu Shaikh 2009 III CLR 426 to submit that since the appointment of the concerned workman was not from the regular stream of appointment they are not entitled to reinstatement but only compensation, as envisaged under section 25 of I.D. Act, 1947.

40. So far the submission of the concerned workman to the effect that first party bank has terminated his services without following the procedure laid down in section 25-F of I.D. Act, 1947, it can be said that there is no employer-employee relationship between the bank and workman and that the services of the workman automatically came to an end after the new contractor was engaged by the bank after following tender process. It is not therefore possible to accept the submission of Learned Counsel for the concerned workman that the termination is illegal on account that it was without following the procedure laid down in section 25-F of I.D. Act, 1947.

41. Realising this difficulty, Learned Counsel for the concerned workman submitted that by way of settlement, the similarly situated workmen and employees in Mumbai were absorbed in services of the bank and therefore the first party bank has violated the principles of equity before law and gave different treatment to some set of employees in Mumbai by neglecting section 12(3) and 18(3) of I.D. Act, 1947 and therefore the termination is illegal. The submission is again other way round. There is no evidence of such discrimination. If any such agreement has been reached then it has no relation with the present dispute. The present dispute is squarely covered by W.P. No. 6247/1998 and the same has to be dealt with in the light of order passed by Hon'ble Bombay High Court in the said writ petition. In view of that the concerned workman cannot base a claim on the basis of settlement entered into in a different matter under different circumstances.

42. Considering all these facts, I hold that action of management in terminating the services of concerned workman w.e.f. 6.1.2012 is legal and justified. The above issues are therefore answered accordingly as against each of them in terms of above observations.

Issue No. 4 & 5.

43. In view of my finding the above issues, the concerned workman is not entitled to be re-instated in the services of first party bank with continuity of service and other consequential benefits. He is not entitled to relief claimed. Thus order.

ORDER

Reference is rejected with no order as to costs.

M. V. DESHPANDE, Presiding Officer

Date: 20.07.2017

नई दिल्ली, 27 नवम्बर, 2017

का.आ. 2739.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2 मुम्बई के पंचाट (संदर्भ संख्या 18/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.11.2017 को प्राप्त हुआ था।

[सं. एल-12012/72/2012-आईआर (बी-I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 27th November, 2017

S.O. 2739.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 18/2013) of the Central Government Industrial Tribunal/Labour Court No. 2, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 27.11.2017.

[No. L-12012/72/2012-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT : M. V. Deshpande**,** Presiding Officer

REFERENCE NO.CGIT-2/18 of 2013

EMPLOYERS IN RELATION TO THE MANAGEMENT OF STATE BANK OF INDIA

Assistant General Manager,
State Bank of India, Zonal Office,
Admn Office, Sharda Chamber,
7th Floor, 386/2, Shankarseth Road,
Pune – 411 037.

AND

THEIR WORKMAN

Smt. Durga Nathu Gharu,
Kularni Chawl, Mahavir Nagar,
G. No.5, Vadgaon Sheri,
Pune – 411 014.

APPEARANCES:

FOR THE EMPLOYER : Shri M. G. Nadkarni, Advocate
FOR THE WORKMAN : Mr. Umesh Vishwad, Advocate

Mumbai, dated the 20th July, 2017.

AWARD

1. This is reference made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide Government of India, Ministry of Labour & Employment, New Delhi vide its order No. L-12012/72/2012 – IR (B-I) dated 21.03.2013. The terms of reference given in the schedule are as follows :

> "*Whether the action of the management of State Bank of India, Zonal Office, Pune in terminating the services of Smt. Durga Nathu Gharu w.e.f. 16.1.2012 is legal and justified ? If not, to what relief the workman is entitled to ?*"

2. After the receipt of the reference, both the parties were served with the notices. They appeared through their respective representatives. Second party workman filed statement of claim Ex.6. According to the concerned workman, she was working with the first party bank since 1983 as a Sweeper. She has worked continuously from 1983 to 16.1.2012 with the first party bank. She was doing the work of cleaning and sweeping the premises of Zonal Office Pune and the officers' quarters of the first party bank under direct control and supervision of the first party bank. Her work is regular and perennial. The first party bank was making payment to her. As such there is direct employer-employee relationship between first party bank and second party workman.

3. According to the second party workman, a group of workmen raised the industrial dispute against the management of first party bank, Mumbai for non-absorption of workmen engaged through contractors in services of the first party bank. The agreement was arrived at and the contract workers were absorbed in the service of Central office and Mumbai Main Branch of the first party bank. However, the first party bank has failed to absorb the contact employees working in Pune and were discriminated in same situation. Therefore, the union namely Thekedar Kamgar Sangh has made demand of absorption of second party workman and other workers. The said union has filed writ petition bearing No. 6247 of 1998 before Hon'ble Bombay High Court. The said petition was disposed of in the year 2006 in view of law laid down in case of Steel Authority of India. Since 1998, the first party bank has stopped paying wages to the second party workman through the contractor and has started direct payment to the second party workman. There is no contractor since 1998 and the wages were directly paid by Pune Zonal office of the first party bank. Even after disposal of the said writ petition the second party workman was in service and wages were paid to her directly by the first party bank.

4. It is contention of the second party workman that she was in continuous service and had put continuously 240 days and more continuous service in every completed year of the service. However, the first party bank has terminated the services of the second party workman without following the procedure laid down in section 25-F of I.D. Act, 1947. Therefore the said termination is illegal, improper, arbitrary and unjust. It also amounts to unfair labour practices. The second party workman is therefore asking to declare that the termination of her services by the first party bank is illegal. She is also asking for re-instatement with continuity of service and all other consequential benefits from the date of termination till actual date of re-instatement along with interest and cost.

5. First party bank has resisted the claim by filing written statement Ex.7. According to the first party bank, the bank had engaged the contractor named M/s. Golden Enterprises since June 1981 who was entrusted with the job of house-keeping at the Zonal office, located at East Street, Gulmohar, Pune and also at the bank's residential quarters namely Madhuban Bank House and Ashirwad Bldg. at Nagar Road, Pune. The bank was making payment to the contractor for the service rendered to the bank and the contractor was in turn effect the payment to the workers engaged by him for carrying out the job given to him by the bank. The said contractor abandoned the contract in November 1998 and ran away. The bank terminated the contract with M/s. Golden Enterprises sometimes in 1999 – 2000. However, with reference to the letter and sprit of the order of Hon'ble Bombay High Court dated 21.3.2006, the bank continued to engage the contract labours for doing the house-keeping jobs at the bank premises. Bank used to give money to Shri Selvam, the Supervisor against the production of the bills. Subsequently, there was inter-se dispute and the contract labours requested bank to pay money directly to them. Accordingly, the arrangement was worked out whereby Shri Selvam used to submit bills and bank credited the amount to the account of each contract labour.

6. It is also contention of the first party bank that on 10.9.2010 the bank published tender notice in local newspaper for maintenance and house-keeping of the banks premises. The bank also suggested the contract labours to form a society, partnership firm or a company for participating in the tender process. Contract labours did not pay heed to the suggestion made by the bank. The tender process was completed on 16.12.2011 and the contract for maintenance and house-keeping of the bank premises was awarded to contractor who had quoted the lowest rates. The new contractor displayed the notice on the bank's notice board stating that he was given contract for maintenance and house-keeping of the banks premises and invited those who were interested to work with him to approach him. However, the concerned workman and other workers did not avail this opportunity.

7. It is also contention of the first party bank that there is no employer-employee relationship between the bank and concerned workman. The tribunal has no jurisdiction to adjudicate the dispute in question. Even as per order in writ petition bearing No. 6247 of 1998 of Hon'ble Bombay High Court, the concerned workman did not approach the competent authority to get the matter referred to tribunal for adjudication and as such dispute referred for adjudication in the present reference has been raised belatedly. It is quite stale. The reference is not maintainable on that ground.

8. According to the first party bank, the concerned workman was engaged by the contractor named M/s. Golden Enterprises. The bank was making payment to the said contractor who in turn was effecting the payment to the workmen engaged by him and therefore the claim of concerned workman that she was engaged by the bank is not maintainable. It is, thus, contention of the bank that it has not discriminated the contract employees working at Pune and therefore the claim of the workman is completely untenable.

9. It is also contention of the first party bank that provisions of section 25-F of I.D. Act, 1947 are not applicable in the factual matrix of the case since the service of the concerned workman automatically came to an end after new contractor was engaged by the bank after duly following tender process.

10. It is then contention of the first party bank that the settlement / agreement that might have been reached at Mumbai has no relation whatsoever with the present dispute and the workman concerned cannot base her claim on the basis of settlement entered into in a different case. On this premises, the first party bank has sought rejection of the reference.

11. Following issues are framed at Ex.8. I reproduce the issues along with my findings thereon for the reasons to follow:

Sr. No.	Issues	Findings
1	Whether the reference is maintainable ?	Yes
2.	Whether there exists employer-employer relationship between the first party bank & concerned workman?	No
3.	Whether the action of the management of State Bank of India in terminating the services of Smt. Durga Nathu Gharu w.e.f. 16/01/2012 is legal and justified ?	Yes
4.	If not, whether the concerned workman is entitled to be reinstated in the services of first party with continuity of service and all other consequential benefits ?	No
3.	What Order ?	As per final order

Reasons

Issue No.1 :-

12. The Learned Counsel for the first party bank submitted that admittedly the union namely Thekedar Kamgar Sangh has made demand of absorption of second party workman and other workers. The said union has filed writ petition bearing No. 6247 of 1998 before Hon'ble Bombay High Court. The main prayer of the petitioner was for issuance of writ of mandamus to the bank for regularizing the services of the concerned workers in the banks service. He submits that the said writ petition wad disposed of by the Division Bench of Hon'ble Bombay High Court vide order dated 9.3.2006. In the said order the Hon'ble Bombay High Court made it clear that in view of law laid down by the Hon'ble Supreme Court of India in Steel Authority of India & Ors. V/s. National Union Waterfront Workers & Ors., the relief claimed in the petition cannot be granted and that only remedy available to the petitioner was to seek a reference to the tribunal. Accordingly, the petitioners were given liberty to make necessary application to the competent authority within two weeks from the date of order and the competent authority was directed to make reference as expeditiously as possible and in any case within a period of two months from the receipt of application of the petitioners. Submission is to the effect that the petitioners in the writ petition did not approach the competent authority to get the matter referred to the tribunal for adjudication within time. The contact labours of M/s. Golden Enterprises filed industrial dispute before the Labour Commissioner, Pune through Zilla Mazdoor Sangh vide their letter dated 23.12.2011. As such the dispute referred for adjudication in the present reference is belated i.e. after about

7 years from the date of order of the Hon'ble Bombay High Court. In view of this the submission is that the reference is not maintainable.

13. The Learned Counsel for the first party bank seeks to rely on the decision in case of Nedungadi Bank Ltd. V/s. K.P. Madhavankutty & Ors. 2000 (II SCC 455) to submit that the power of the appropriate government to exercise its powers under section 10 of the I.D. Act, 1947 is to be exercised reasonably and in a rational manner. There appears to be no rational basis on which the Central Govt. has exercised the powers in this case after a lapse of about 7 years of the order of the Hon'ble Bombay High Court. As such the dispute is stale and could not be the subject matter of the reference under section 10 of the I.D. Act, 1947.

14. He also seeks to rely on the decision in case of Reserve Bank of India V/s. Gopinath Sharma & Anr. 2006 (6 SCC 221) to submit that delay of 4 years in raising the dispute even after re-employment of the most of the workmen was held to be fatal.

15. He then seeks to rely on the decision in case of State of Karnataka & Anr. V/s. Ravi Kumar 2009 III LLJ (206 SC) to submit that 14 years delay to challenge the termination was stale reference and the reference ought to have been rejected on the ground alone.

16. However, in view of the facts of the present case it is to be seen whether the second party workman and other workers were diligent in raising the dispute before competent authority. We have document at Page 2 of list of document dated 11.3.2016. It is a copy of the letter dated 31.5.2006 (Ex.15) addressed to the Dy. Commissioner of Labour, Pune requesting him to intervene in the dispute and making reference within the time prescribed by the Hon'ble Bombay High Court. That would show that Thekedar Kamgar Sangh has made an application for making the reference within time prescribed by the Hon'ble Bombay High Court.

17. So far contention go, it is also a contention of the second party workman that even after the disposal of the said writ petition second party workman was in service and the wages were paid by the first party bank to her directly. As per her contention, the first party bank has terminated the services of the second party workman and as such the dispute was raised by the second party workman for regularization of the services of the concerned workman. It is the submission of the second party workman that the reference has not been arisen out of the demand of the union but the said reference has arisen out of the demand of the individual workman. The demand is not for regularization but the demand is for re-instatement of service. In view of these facts, it can be said that the individual workman has made the demand for regularization of her service and the reference has arisen out of her demand. Even before that in 2006 it is the union who has made application to the Dy. Commissioner of Labour, Pune requesting him to intervene into the dispute and make the reference within the time prescribed by the Hon'ble Bombay High Court. The said letter dated 31.5.2006 is at Ex.15. Therefore it can be said that the union was diligent in making the reference but then subsequently the demand is made by the individual workman for re-instatement and not for regularization. It cannot be said therefore that the reference is belated or otherwise it is stale and not maintainable. This point is therefore answered accordingly in negative.

Issue Nos. 2 & 3:

18. This is the main contentions issue. At the first brush I would observe that admittedly M/s. Golden Enterprises was engaged by the bank as a contractor since 1981 for doing house-keeping at Pune Zonal office and bank's quarters at Pune. In her evidence also the second party workman has stated that she has joined the services in 1998. She then admits that M/s. Golden Enterprises has abandoned the contract in November 1998 and the trade union namely Thekedar Kamgar Sangh has filed writ petition bearing No. 6247 of 1998 on behalf of the contract workers in the Hon'ble Bombay High Court. Admittedly, in the writ petition they have made averments categorically that they have been employed by M/s. Golden Enterprises. In para 3(a) of statement of claim it is stated that they were on the muster of M/s. Golden Enterprises. It is admitted that they were not under the disciplinary control of the bank. Even it is admitted that they were not getting the facilities as available to the other bank employees. In view of above categorical and clear admission, the second party workman involved in the present reference cannot take a contradictory and inconsistent plea and cannot claim employer-employee relationship with the first party bank.

19. Even then the Learned Counsel for the second party workman submitted that after termination of the contract in between the first party bank and M/s. Golden Enterprises, second party workman was continued in service and the workers were directly paid by the bank at the same daily wages rate which was paid by the contractor. Submission is to the effect that the contract workers of M/s. Golden Enterprises were engaged by the State Bank of India and therefore they cannot be treated as contract employees because the contract of the contractor M/s. Golden Enterprises with the bank was cancelled and since cancellation of the contract they were continued to be in the service which would show that first party bank was the principal employer.

20. In this respect, if we see the evidence of the concerned workman, she admits that in the writ petition it was categorically shown that the contract labours were employed by M/s. Golden Enterprises and they are working on behalf of the M/s. Golden Enterprises in the premises of bank at Pune. Admittedly, in the statement of claim in para 3(a), she and other workers were shown on the muster of M/s. Golden Enterprises. It is admitted by her that before 1998 M/s. Golden Enterprises use to make payment to them. She even admits that she and other workers were not

under the disciplinary control of the bank. Admittedly they were not getting the facility as available to the other bank employees. In view of this it can be said that the concerned workman being the employee of the contractor, the ultimate supervision and control was of the contractor.

21. In this respect the evidence has come on record that one Shri Selvam used to submit the bills in respect of work of concerned workman and other workers and then the bank used to credit the amount in the account of each of the contract labour. The question is whether the said arrangement which was worked out is sufficient to show and establish the employer-employer relationship in between the concerned workman and the first party bank. When initially the concerned workman was engaged by the contractor and after termination of the contract in between the said contractor and the bank she has been continued with such arrangement in respect of payment of wages to her by the bank by depositing her wages directly in her account after the production of bills by the said Shri Selvam, then that would not be sufficient to say that first party bank being the principal employer was making payment of wages to the concerned workman. Merely because the amount was credited to the workman/s account under circumstances narrated above does not in any way alter the factual position that the concerned workman was a labour contractor and not an employee of the bank.

22. I say so because there is well defined procedure in the bank for recruitment and employment in the bank is done by inserting advertisement, holding competitive test for the employment, selection procedure through merit etc. etc. No such procedure was adopted at the time of engagement of the concerned workman as a Sweeper. The fact remains therefore that she was a contract labour for doing the house-keeping job at the banks premises and therefore she continued to be a contract labour even after the contract between said contractor and bank was terminated somewhere in 1999-2000.

23. The Learned Counsel for the first party bank submitted that the bank continued to engage contract labours for doing the house-keeping jobs at the bank premises in view or order of Hon'ble Bombay High Court dated 21.3.2006 whereby the Hon'ble Bombay High Court in view of petition by the petitioners took out a motion for clarification of order passed on 9.3.2006 by the Hon'ble Bombay High Court and also protection till reference is made at the instance of the petitioners to the tribunal for adjudication. The Hon'ble Bombay High Court observed that they do not see any protection granted by the court which was sought to be continued but then the Hon'ble Bombay High Court observed that the contract labours employed by the bank should be continued subject to the requirements and by following statutory obligations including payment of wages etc. and they need not be dis-continued only because the petition has been disposed of. That would show that in view of this order passed by the Hon'ble Bombay High Court the concerned workman was continued in services as per the requirement and after cancellation of contract with first party bank and the contractor namely M/s. Golden Enterprises, the subsequent arrangement was made in respect of payment of wages of the concerned employees who were engaged by the contractor and therefore the payment was made to them by depositing the amount in their bank accounts on submission of the bills by one shri Selvam. That would again show that the concerned workman was not considered to be the employee of the first party bank. All the while she was continued to be contract labour even after the order of Hon'ble Bombay High Court till her services automatically came to an end.

24. Even then the Learned Counsel for the second party workman submitted that the employees were the employees of M/s. Golden Enterprises till that contract was not abandoned or cancelled. After cancellation of the contract in 1999-2000 M/s. Golden Enterprises ceased to be contractor and these employees were ceased to the employees of M/s. Golden Enterprises. He submits that Hon'ble Bombay High Court has not directed to keep contract employees of M/s. Golden Enterprises in service in orders passed on 19.1.1999 and 1.2.1999. Therefore the relation between the S.B.I. and M/s. Golden Enterprises as principal employer and the contractor came to an end and after cancellation of the contract in 1999-2000 the services of the employees employed by M/s. Golden Enterprises for performing the job of cleaning, sweeping, house-keeping of S.B.I. premises automatically came to an end. These employees were ineligible to work with S.B.I. as contract workers of M/s. Golden Enterprises. So after termination of contract of M/s. Golden Enterprises and S.B.I., by oral orders by S.B.I. the employees were appointed to carry out the house-keeping, cleaning, sweeping work and then since that date till the date of termination the concerned workman were employed continuously by S.B.I. They worked for 10 – 12 years continuously on the basis of said oral order of S.B.I. and therefore there exists employer-employee relationship in between bank and concerned employees.

25. This submission is other way round and is not acceptable. A definite stand was taken by the concerned employees in the WP No. 6247/1998 that they are employees employed by M/s. Golden Enterprises which has been given a contract of house-keeping of S.B.I., Pune, Regional Office Pune has been employing several workers for carrying out the same work. It would thus not lie in their mouth to take contradictory and inconsistent plea that they are the workmen of the principal employer i.e. bank. To raise such a mutually destructive plea is impermissible in law. Such mutually destructive plea should not be allowed to be raised. Common law principle of estoppel waiver and acquaintance are applicable in the industrial adjudication. In the context the hand can be laid on decision in case of Steel Authority of India V/s. Union of India 2006 (12 SC 243) wherein in para 28 of the judgment it has been observed that such inconsistent plea is not permissible.

26. On going through the order of Hon'ble Bombay High Court in the said WP No. 6247/1998 it has been observed as follows:

> "We have gone through the orders passed by this court on 19.1.1999 and 1.2.1999 and we do not see any protection granted by this court and as sought to be continued. Undoubtedly the contract labours employed by Respondent bank shall be continued subject to the requirement and by following the statutory obligations including the payment of wages etc. and they need not be dis-continued only because this petition has been disposed of."

27. In view of these observations of Hon'ble Bombay High Court even after the termination of contract in between M/s. Golden Enterprises and the bank the concerned workmen were continued and were paid wages by the bank by depositing the wages in their respective bank accounts. That does not mean that the bank has orally appointed them as its employees on regular basis even without following the statutory procedure.

28. Learned Counsel for the concerned workman / union submitted that the bank was paying bonus to the concerned employees. He refers to Ex.17 to submit that the bank was making payment through bankers' cheque. Therefore the submission is that as per Section 10 of Payment of Bonus Act, the employer is bound to pay the bonus. Section 2(14) of Payment of Bonus Act defines employer and it says that in relation to any other establishment the person who or the authority which was the ultimate control over the affairs of the establishment and the managing agent is the employer. He submits that as per section 21(4) the principal employer is not liable to pay bonus, gratuity as wages does not include it. He is liable to pay only wages if the contractors fails to pay wages. Since S.B.I. has paid bonus to the concerned employees it can be said that S.B.I. has engaged concerned workman directly and the bank is the employer of the concerned workmen who are covered under the Payment of Bonus Act.

29. This submission is also not acceptable since in the decision in case of Indian Iron & Steel Co. Ltd. V/s. State of West Bengal & Ors. 2011 (4 LLM 158), Calcutta, it has been observed in para 20 of the judgment that,

> "There is no warrant for the proposition that in every case where the bonus is paid to an employee, the same is an indicator of the employee being a regular employee. The company is an establishment in public sector. The provisions of bonus act would apply to it only if it satisfies the conditions mentioned in sub-section (1) of section 20 thereof. If indeed the company was obliged to pay bonus to its regular employees and had in the process shared its profits with the contract labours by paying the bonus in terms of bonus act, the very action of extending benefits of the social welfare legislation to said labours would not change their status to regular employees of the company."

30. Next submission of Learned Counsel for the concerned workman is that the contractor did not obtain necessary licence. In this respect also it is necessary to refer the observations in para 20 of the citation cited supra. It has been observed that if at all the contractor did not obtain the licence it would open to the authority concerned to take action against it under section 23 of CLRA Act but for that the company cannot be penalized and the contract labours employed by such erring contractor be thrust upon it. Non-obtaintion of licence without anything more would not clothe the Respondent with any legal right to claim that they are the direct employees of the company and hence entitled to continue in service despite the contract with KNYCEE not being renewed.

In view of this legal position it can be said that even if the contract between the bank and the contractor namely M/s. Golden Enterprises was cancelled and could not be renewed that does not give right to the concerned employee / union to claim that they are direct employees of the bank.

31. Next submission of Learned Counsel for the concerned workman is that there is no documentary evidence to show that Shri Selvam was the contractor after the contract of M/s. Golden Enterprises was abandoned. He submits that before RLC the settlement of Minimum wages was reached between the bank and workman / union and the bank has accepted to pay the minimum wages to the concerned workman. In view of that the submission is that after the contract with M/s. Golden Enterprises was abandoned, it was the bank who paid the wages to the concerned employees by depositing the wages in their bank account and thereby the bank has accepted it to be the employer of the concerned workman.

32. It is no doubt true that there is no documentary evidence to prove that Selvam was submitting the bills on the basis of which the wages were deposited in the bank account of each workman. But then Selvam was one of the worker along with other employees. Even the workman herself has admitted in her cross-examination that due to inter-se dispute between the workers they requested the bank to make the direct payment and arrangement was worked out. In view of that it can be said that some arrangement was worked out in respect of payment to these workmen after the contract between the bank and M/s. Golden Enterprises was abandoned.

33. In view of this, it is the submission of Learned Counsel for the bank that the workmen concerned were continued to be engaged by K.P. Selvam as a contract labour after original contractor ran away and no wages were directly paid to them by the bank. In view of admission of the concerned workman that the arrangement was worked out after the inter-se dispute between the workers it can be very well said that the concerned workmen were paid wages directly in their bank account by way of this arrangement which was worked out. Therefore that will not give them the

status of regular employees since initially they were engaged by the contractor and then there is no documentary evidence to show that the concerned workman was appointed by the bank.

34. It is then submission of Learned Counsel for the concerned workman that the concerned workman was doing the work of sweeping and cleaning under the direction, control and supervision of first party bank. He refers to copies of attendance register to submit that those registers are maintained by the bank and it bears the signatures of Waze, Kulkarni and Bhosale who are the bank officers. In view of this it is submitted that the bank officers were having control over the work carried out by the concerned employees.

35. In his cross-examination witness Sudhir Ramchandra has denied the suggestion to the effect that the bank was having control over the work carried out by the concerned employees and that Mr. Jatar, Sudhir Pawar, Dube, Karkhanis were supervising the work and were allotting the work to the concerned employees. Even if some anxious consideration is given to this submission of Learned Counsel for the concerned workman then also it can be said that merely because the contract labour work is under the supervisions of officers of principal employer it cannot be taken as evidence of direct employment under the principal employer. In the decision in case of International Airport Authority of India V/s. International Air Cargo Union and Anr. 2009 (13 SCC 374) it has been observed in para 54 of the judgment that,

> "Exercise of some control over the activities of the contract labour while they discharge their duties as labours is inevitable and such exercise is not sufficient to hold that the contract labour will become the direct employee of the principal employer."

36. In the light of above observations I hold that there does not exist employer-employee relationship between the first party bank and second party workman. But then it is submission of the Learned Counsel for the concerned workman that the concerned workman had worked for 240 days and continuously in every completed year of service and her services came to be terminated without following the procedure laid down under section 25 of I.D. Act, 1947. In this view the submission is that the said termination is illegal and improper.

37. This submission is also not acceptable since the fact remains that the concerned workman was engaged by the contractor and after termination of the contract her services came to an end.

38. For it is explicit from the evidence of Sudhir Jalanwar, the witness of the bank that on 10.11.2010 the bank published tender notice in local newspapers for maintenance and house-keeping of bank premises. The bank also suggested the contract labours to form a society, partnership firm or a company for participating in the tender process. Contract labours did not pay heed to the suggestion made by the bank. The tender process was completed on 16.12.2011 and the contract for maintenance and house-keeping of the bank premises was awarded to contractor who had quoted the lowest rates. The new contractor displayed the notice on the bank's notice board stating that he was given contract for maintenance and house-keeping of the banks premises and invited those who were interested to work with him to approach him. However, the concerned workman and other workers did not avail this opportunity to work under the new contractor. The fact remains therefore that after termination of earlier contract the services of the concerned workman automatically came to an end.

39. In view of this, the Learned Counsel for the first party bank submitted that though concerned workman had worked for 240 days in a year, her appointment was not from the regular stream of appointment and therefore is not entitled for regularization. He seeks to rely on the decision in case of Dena Bank V/s. Ashraf Yalu Shaikh 2009 III CLR 426 to submit that since the appointment of the concerned workman was not from the regular stream of appointment they are not entitled to reinstatement but only compensation, as envisaged under section 25 of I.D. Act, 1947.

40. So far the submission of the concerned workman to the effect that first party bank has terminated her services without following the procedure laid down in section 25-F of I.D. Act, 1947, it can be said that there is no employer-employee relationship between the bank and workman and that the services of the workman automatically came to an end after the new contractor was engaged by the bank after following tender process. It is not therefore possible to accept the submission of Learned Counsel for the concerned workman that the termination is illegal on account that it was without following the procedure laid down in section 25-F of I.D. Act, 1947.

41. Realising this difficulty, Learned Counsel for the concerned workman submitted that by way of settlement, the similarly situated workmen and employees in Mumbai were absorbed in services of the bank and therefore the first party bank has violated the principles of equity before law and gave different treatment to some set of employees in Mumbai by neglecting section 12(3) and 18(3) of I.D. Act, 1947 and therefore the termination is illegal. The submission is again other way round. There is no evidence of such discrimination. If any such agreement has been reached then it has no relation with the present dispute. The present dispute is squarely covered by W.P. No. 6247/1998 and the same has to be dealt with in the light of order passed by Hon'ble Bombay High Court in the said writ petition. In view of that the concerned workman cannot base a claim on the basis of settlement entered into in a different matter under different circumstances.

42. Considering all these facts, I hold that action of management in terminating the services of concerned workman w.e.f. 6.1.2012 is legal and justified. The above issues are therefore answered accordingly as against each of them in terms of above observations.

Issue No. 4 & 5.

43. In view of my finding the above issues, the concerned workman is not entitled to be re-instated in the services of first party bank with continuity of service and other consequential benefits. He is not entitled to relief claimed. Thus order.

ORDER

Reference is rejected with no order as to costs.

M. V. DESHPANDE, Presiding Officer

Date: 20.07.2017

नई दिल्ली, 29 नवम्बर, 2017

का.आ. 2740.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सिंडीकेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय अहमदाबाद (गुजरात) के पंचाट (संदर्भ संख्या 1191/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29.11.2017 को प्राप्त हुआ था।

[सं. एल-12011/10/2002-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 29th November, 2017

S.O. 2740.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1191/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Syndicate Bank and their workman, which was received by the Central Government on 29.11.2017.

[No. L-12011/10/2002-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer,
CGIT-cum-Labour Court, Ahmedabad,
Dated 09th October, 2017

Reference: (CGITA) No. 1191/2004

The Dy. General Manager,
SB, P.B. No. 4112,
Neptune Towers, Opp. Nehru Bridge, Ashram Road,
Ahmedabad (Gujarat) … First Party

V/s

The Assistant Secretary,
Gujarat Bank Workers Union,
Central Office,
Rajkot(Gujarat) …Second Party

For the First Party : Shri P.S. Chari

For the Second Party : Shri P.S. Vasawada

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12011/10/2002-IR (B-II) dated 22.04.2002 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the action of the management of Syndicate Bank, Ahmedabad not to consider the service of Shri Belim Abrahim, A., temporary part time sweeper as permanent employee is justified or legal? If not, what relief the workman is entitled for and since when?"

1. The reference dates back to 22.04.2002. After service of the notice, the second party submitted the statement of claim Ex. 4 on 29.04.2003 while pending the matter in the Industrial Tribunal, Rajkot. After receiving the record from Industrial Tribunal, Rajkot on 19.10.2010, both the parties were issued notice Ex. 8 to appear on 20.01.2011. Both the parties appeared and the first party vide application Ex. 9 on 20.01.2011 sought time to submit the written statement. The second party workman appeared on 20.04.2011 and 21.07.2011, thereafter, he stopped to appear in the tribunal for prosecution of his case. Therefore, on 17.11.2016, fresh notice was issued to both the parties to appear on 16.01.2017 which were served on both of them vide acknowledgement receipt Ex. 13 and 14. Advocate Shri P.S. Chari filed the vakalatpatra Ex. 15 on behalf of the first party on 06.03.2017 but the second party workman did not appear to prosecute the case. Even after service of notice, the second party workman in his absence was given 2 opportunities to prosecute his case but he did not turn up.

2. Thus it appears that the second party workman is not willing to prosecute the case.

3. Therefore, the reference in the absence of the evidence of the second party workman, is disposed of with the observation as under: "the action of the management of Syndicate Bank, Ahmedabad not to consider the service of Shri Belim Abrahim, A., temporary part time sweeper as permanent employee is justified or legal."

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 29 नवम्बर, 2017

का.आ. 2741.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूनियन बैंक आफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद (गुजरात) के पंचाट (संदर्भ संख्या 1068/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29.11.2017 को प्राप्त हुआ था।

[सं. एल-12012/124/1996-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 29th November, 2017

S.O. 2741.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1068/2004) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad (Gujarat) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Union Bank of India and their workman, which was received by the Central Government on 29.11.2017.

[No. L-12012/124/1996-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer,
CGIT-cum-Labour Court, Ahmedabad,
Dated 13th October, 2017
Reference: (CGITA) No. 1068/2004

The Manager,
Union Bank of India,
Head Office, Nariman Point,
Bombay …First Party

V/s

The President,
Saurashtra Employees Union,
Umesh Commercial Complex, 213 and 214,
Near Chaudhary High School,
Rajkot (Gujarat) …Second Party

For the First Party : None
For the Second Party : Shri B.B. Gogia

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/124/96-IR (B-II) dated 30.04.1996 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the action of the management of Union Bank of India, Rajkot in terminating the services of Smt. Halimaben Suleman Kukad, Peon w.e.f. 20.04.1993 is legal and justified? If not, to what relief is the said workman entitled?"

1. The reference dates back to 30.04.1996. The second party submitted the statement of claim Ex. 4 on 14.06.1996. The first party despite service and submitting the vakalatpatra of his advocate, did not prefer to submit the written statement. Therefore, on 25.07.2016, the reference was ordered to proceed ex-parte against the first party and the second party was directed to lead evidence on 09.12.2016 but despite giving opportunities on 09.12.2016, 10.02.2017, 21.04.2017, 11.08.2017 and 13.10.2017, no evidence was lead by the second party and he has also been absent since then.

2. Therefore, it appears that the second party has not been willing to prosecute the case.

3. Thus the reference is disposed of in the absence of the evidence of the second party with the observation as under: "the action of the management of Union Bank of India, Rajkot in terminating the services of Smt. Halimaben Suleman Kukad, Peon w.e.f. 20.04.1993 is legal and justified."

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 29 नवम्बर, 2017

का.आ. 2742.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक आफ बडौदा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद (गुजरात) के पंचाट (संदर्भ संख्या 1404/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29.11.2017 को प्राप्त हुआ था।

[सं. एल-12012/37/2003-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 29th November, 2017

S.O. 2742.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1404/2004) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad (Gujarat) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bank of Baroda and their workman, which was received by the Central Government on 29.11.2017.

[No. L-12012/37/2003-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer,
CGIT-cum-Labour Court, Ahmedabad,
Dated 27th September, 2017

Reference: (CGITA) No. 1404/2004

The Manager,
Bank of Baroda,
Valod Branch, Zaveri Street, Valod,
Surat (Gujarat) …First Party

V/s

Shri Dineshbhai Bhangiyabhai Gamit,
Valod Char Rasta,
Opp. Telephone Exchange, Vadod,
Surat (Gujarat) …Second Party

For the First Party : Shri J. B. Jariwala

For the Second Party : Shri N. M. Shah

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/37/2003-IR (B-II) dated 13.06.2003/18.07.2003 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether Shri Dineshbhai Bhangiyabhai Gamit has put in continuous service in the Bank of Baroda as per provisions of Section 25-B of the Industrial Disputes Act, 1947? If so, whether the action of the management of Bank of Baroda, Head Office, Baroda through its officers in continuing/terminating the services of the workman Shri Dineshbhai Bhangiyabhai Gamit is legal, proper and justified? If not, what relief the concerned workman is entitled to and what other directions are necessary in the matter?"

1. The reference dates back to 13.06.2003/18.07.2003. The second party submitted the statement of claim Ex. 10 on 19.07.2007 alleging that he was appointed as peon on daily wage basis on 01.05.1992 in a permanent vacancy by the first party. Since then he had been discharging his duties continuously. He worked from 01.05.1992 to 31.07.1995 and from 08.08.1998 to 24.07.2002 with the first party no. 3 and from 01.08.1995 to 07.08.1998 with the first party no. 2 i.e. Bank of Baroda at Braches Valod Char Rasta, Valod and Zaveri Street, Valod Branch. He was paid daily wages at the end of every month by way of vouchers. He completed more than 240 days in each year from 1992. But on 24.07.2002, his services were terminated without complying the provisions of Section 25 H of the I.D. Act. He further alleged that he served for 247 days in the preceding year from 25.07.2001 to 24.07.2002. Thus he has prayed for regularisation of his service.

2. The first party did not prefer to submit the written statement despite giving number of opportunities. On 09.02.2010, the advocate for the second party workman moved an application Ex. 19 for denying the opportunity to the first party to submit the written statement as he failed to submit the written statement for last 6 years despite putting appearance by the advocate Jayvadan B. Jariwala vide his vakalatpatra Ex. 6 on 16.07.2003. Thus the application Ex. 19 of the second party was allowed and the matter was ordered to proceed ex-parte against the first party.

3. It is also noteworthy that on 12.04.2017, a fresh notice was issued to the first party Bank of Baroda to appear and contest the case on 26.07.2017 vide notice Ex. 29. The acknowledgement of the receipt of the notice Ex. 30 was also received but to no result.

4. The second party workman has submitted his affidavit Ex. 28 in support of the statement of claim along with the zerox copies of the documents supporting his averments made in the statement of claim.

5. Thus the prayer sought by the second party workman to be regularised as a peon, is justified on the basis of the evidence and same is allowed.

6. Thus the reference is disposed of with the observation as under: "the action of the management of Bank of Baroda, Head Office, Baroda through its officers in continuing/terminating the services of the workman Shri Dineshbhai Bhangiyabhai Gamit is illegal, improper and unjustified."

7. The first party The Manager, Bank of Baroda, Valod Branch, Zaveri Street, Surat is directed to reappoint the second party workman as Peon within 60 days from the date of publication of this award and also consider his regularisation as per the provisions of law after giving him proper opportunity of hearing.

8. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 29 नवम्बर, 2017

का.आ. 2743.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक आफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद (गुजरात) के पंचाट (संदर्भ संख्या 1425/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29.11.2017 को प्राप्त हुआ था।

[सं. एल-12012/62/2004-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 29th November, 2017

S.O. 2743.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1425/2004) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad (Gujarat) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bank of India and their workman, which was received by the Central Government on 29.11.2017.

[No. L-12012/62/2004-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer,
CGIT-cum-Labour Court, Ahmedabad,
Dated 05th October, 2017

Reference: (CGITA) No. 1425/2004

The Chief Manager,
Bank of India,
Zonal Office, Para Bazar, M.G. Road,
Rajkot (Gujarat) – 360001 …First Party

V/s

Shri K.J. Parmar,
Ratanpur Municipal Quarter,
Block No. 36,
Ratanpur, Tal Wadhwan,
Surendranagar (Gujarat) …Second Party

For the First Party : Shri D. C. Gandhi Associates

For the Second Party : Shri V. J. Patel

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/62/2004-IR (B-II) dated 23.06.2004 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the action of the management of Bank of India, Rajkot in terminating the services of Mr. K.J. Parmar w.e.f. 21.06.2002 is legal and justified? If not, what relief the workman concerned is entitled to?"

1. The reference dates back to 23.06.2004. The second party submitted the statement of claim Ex. 3 on 28.09.2002 alleging that he joined the service of part time sweeper with the first party The Chief Manager, Bank of India, Zonal Office, Para Bazar, M.G. Road, Rajkot in the year 1992. He was paid wages at the rate of Rs. 40/- per day. He did work as part time sweeper from year 1992 to 1997. During this period, he also worked as full time sweeper for some time at the rate of Rs. 80/- per day but his services were terminated in October, 1997 without assigning any reason and also without giving notice and notice pay. He has further alleged that he worked continuously since October, 1997 to 21.06.2002 in the vacancy of one full time sweeper named L.B. Rathod. He continued to work with decency. He never misbehaved with anybody. He further alleged that he had been working in each year from 1997 to 2002 but was relieved without serving any notice and paying retrenchment compensation. Also at the time of relieving from his job, he was not paid any retrenchment compensation.Thus his termination was violative of provisions of Section 25 F, G & H of the I.D. Act.

2. The first party submitted the written statement Ex. 9 stating that the averments made in the statement of claim are false and the reference is not maintainable. The true facts are that there was no relationship of master and servant between them. He was not appointed as part time sweeper, rather he was engaged as part time sweeper in the leave vacancy as and when need arose. It has been further stated that this second party workman was a schedule caste while L.B. Rathod belonged to OBC category in whom vacancy this workman was engaged and when vacancy in place of L.B. Rathod arose, another person in the OBC category in place of L.B. Rathod was appointed denying the appointment of this second party workman in his place. It has been further submitted that the first party bank is the government organisation, therefore, the recruitment are always made as per the guidelines of the Government of India by inviting applications through employment exchange. As this second party workman was not appointed through employment exchange, therefore, there is no denial of justice to this workman.

3. The second party workman moved an application Ex. 11 demanding the production of documents from the first party mainly attendance register/muster roll, payment of vouchers and bank pass book regarding the payment of wages which the first party bank did not submit.

4. The second party vide list Ex. 14 submitted the details of the working days for the period from 1992 to 1997 but it is not proved that he ever worked for more than 240 days during this period. But it is noteworthy that the bank has admitted in his written statement that the second party workman did work from 1997 to 2002 in place of L.B. Rathod.

5. On the basis of pleadings of both the parties, the following issues arise:

i. Whether the action of the management of Bank of India, Rajkot in terminating the services of Mr. K.J. Parmar w.e.f. 21.06.2002 is legal and justified?

ii. If not, to what relief, if any, the workman concerned is entitled?

6. Issue No. (i): The burden of prove of this issue lied on the second party workman wherein he has reiterated the averments made in the statement of claim Ex.3 and nothing has been said contrary to the statement of claim in his cross-examination. The first party submitted the affidavit Ex. 21 of one Naveen Chandra Ramanlal Dabhi, the Branch Manager of State Bank of India, Maninagar Branch who reiterated the averments made in the written statement but in his cross-examination, he has stated that the workman was not appointed as per the guidelines of the bank. He was simply engaged as casual labour in the leave vacancy of one employee named L.B. Rathod who belongs to Otherwise Backward Category. Both the parties submitted their written arguments. This is an admitted fact between both the parties that the second party workman has been working as a casual labour in the leave vacancy. This is a settled law that no one can be appointed in the Government controlled organisation violating the recruitment rules. It is noteworthy that this workman has been retrenched without following the procedure of Section 25 F, G & H of the I.D. Act without serving any notice and paying retrenchment pay. Thus in the light of the settled law, this issue is decided with the observation that this workman cannot be reinstated and regularised in service but he is entitled for the retrenchment compensation. Therefore, the retrenchment compensation to the extent of Rs. 70000/- would be just as he served the bank for more than 5 years in leave vacancy against a permanent post.

7. Issue No. (ii): Thus in the light of the findings of the Issue No. (i), the first party may be directed to pay Rs. 70000/- as retrenchment compensation to the second party workman.

8. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 29 नवम्बर, 2017

का.आ. 2744.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार नेशनल इंशोरेंस कम्पनी लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय अहमदाबाद (गुजरात) के पंचाट (संदर्भ संख्या 1144/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29.11.2017 को प्राप्त हुआ था।

[सं. एल-17012/41/1993-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 29th November, 2017

S.O. 2744.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1144/2004) of the Central Government Industrial Tribunal/Labour Court Ahmedabad (Gujarat) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of National Insurance Company Limited and their workman, which was received by the Central Government on 29.11.2017.

[No. L-17012/41/1993-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer,
CGIT-cum-Labour Court, Ahmedabad,
Dated 29th September, 2017

Reference: (CGITA) No. 1144/2004

The Deputy Manager,
National Insurance Company Ltd.,
Regional Office, Hasubhai Chambers, Near Town Hall,
Ellisbridge,
Ahmedabad (Gujarat) …First Party

V/s

Shri Dinesh Babulal Solanki,
Nilkanth Park, Street No. 2,
Khodiyar Krupa, Andh Vidyalaya Road,
Surendranagar (Gujarat) …Second Party

For the First Party : Shri Durgesh R. Chaudhary

For the Second Party : Shri R.C. Associates

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-17012/41/93-IR(B-II) dated 19.08.1997 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the action of the management of National Insurance Company Ltd., in terminating the services of Shri Dinesh Babulal Solanki is legal and justified? If not, to what relief the said workman is entitled?"

1. The reference dates back to 19.08.1997. The second party workman submitted the statement of claim Ex. 4 on 01.03.1999 alleging that the first party National Insurance Company Ltd., Ahmedabad engaged him as a daily wager sometimes in 1985 and he was disengaged from service in the year 1987 after serving 2 years without serving any notice or paying any notice pay. After his disengagement from service by the first party, in his place two persons were

appointed. Thus his termination was violative of provisions of Section 25 F, G & H of the Industrial Disputes Act. Thus he has prayed for reinstatement with back wages.

2. The first party despite submitting vakalatpatra of his advocates did not prefer to submit the written statement. On 20.06.2002, the second party moved an application to close the defence of the first party as the first party failed to submit the written statement. The said application was allowed by the Industrial Tribunal, Rajkot on the same date. Thus the matter was preceded as ex-parte against the first party.

3. The second party workman also moved an application for production of documents of muster rolls etc.

4. The second party workman was examined on 20.06.2002 and he reiterated the averments made in the statement of claim but he has not disclosed in his examination as to whether he served the first party for more than 240 days in the preceding year from the date of termination of service or not. Further, he has not disclosed the names of those persons who were junior to him and were appointed after his termination from service.

5. From the perusal of the evidence of the second party, the second party workman cannot said to be a workman within the definition of the Industrial Disputes Act as he has not proved and stated that he served the first party for more than 240 days. Second, he has not disclosed the names of the persons who were junior to him and appointed after his termination. Thus the termination as has not been made by a procedure established by law, therefore, the termination cannot be said to be violative of provisions of Section 25 F, G & H of the Industrial Disputes Act.

6. Therefore, on the basis of the discussions stated above, the reference is disposed of with the observation as under: "the action of the management of National Insurance Company Ltd., in terminating the services of Shri Dinesh Babulal Solanki is legal and justified."

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 29 नवम्बर, 2017

का.आ. 2745.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एलआईसी आफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद (गुजरात) के पंचाट (संदर्भ संख्या 1061/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29.11.2017 को प्राप्त हुआ था।

[सं. एल-17012/28/1993-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 29th November, 2017

S.O. 2745.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1061/2004) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad (Gujarat) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of LIC of India and their workman, which was received by the Central Government on 29.11.2017.

[No. L-17012/28/1993-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer,
CGIT-cum-Labour Court, Ahmedabad,
Dated 09th October, 2017

Reference: (CGITA) No. 1061/2004

In

Reference (ITC) No. 35/1997

The Divisional Manager,
LIC of India,
LIC Office, Tagar Marg,
Rajkot (Gujarat) …First Party

V/s

Shri Kanubhai Bachubhai Waghela,
C/o Dhruvkumar C. Joshi,
Bharatiya Karamchari Adhikar Sangh,
Office Bearer, RIS at "ISHWAR KRUPA",
Junction Plot, Sheri No. 1,
Rajkot (Gujarat) – 360001 …Second Party

For the First Party : Shri K.V. Gadhia and Shri M.K. Patel

For the Second Party : Shri L.M. Patil

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-17012/28/93-IR(B-II) dated 11.08.1997 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the action of the management of LIC of India in terminating the services of Shri K.B. Vaghela w.e.f. 01.03.1989 is legal and justified? If not, to what relief the said workman is entitled to?"

1. The reference dates back to 11.08.1997. After issuing notice to both the Parties, Both the parties appeared in the Reference. Second Party submitted the statement of claim on 24.02.1998 vide Ex. 8. It is the case of the second party that he was working in Botad Office of the First party since 18.01.1988 till 28.02.1989 continuously as a Peon-cum-Sweeper on full time basis and was paid wages @ Rs. 265/- p.m. It is further alleged that he was illegally terminated on 01.03.1989 without following the due process of law. It is further alleged that no seniority list was prepared and published, nor was he paid notice pay or retrenchment compensation and further that his juniors were retained and even new persons were appointed in his place. Thus the second party has prayed for reinstatement with back wages along with costs.

2. The First Party also appeared and submitted Written Statement vide Ex. 14. The first party has elaborated the history of incorporation of the LIC and explained in so many words about the staff regulations and non- maintainability of reference praying for rejection of reference. On merits the first party has denied all the averments made in the statement of claims and stated that the second party was kept only on temporary basis and his services automatically came to an end on completion of his temporary fixed time appointment, therefore he was not entitled to any relief as prayed for. In this manner, the first party has prayed for rejection of Reference.

3. The Second party/workman has examined himself vide Ex. 17 and in his examination-in-chief, he has reiterated the averments made in the statement of claims. He has described the nature of his duties and then lastly he has admitted in his chief examination itself that he was doing labour work and earning Rs. 100-150/- per month after termination. In cross-examination, he has admitted that he worked on ad hoc basis but he does not have any proof of him having worked from 18.01.1988. He also admitted that for appointment in LIC, the names are called from the Employment Exchange and that in his case no such process was followed. He also admits that he gave a notice to the first party about his termination from service about 1.25 years after his alleged termination. He also admitted that his household expenses for his family comprising of 4 members is around Rs. 2500 to 3000/- per month and that he used to earn the same.

4. The first party examined his sole witness named Mr. Dhaneshwar P. Vakhda vide Ex. 30. In his examination chief, he has stated that he works with the LIC since 34 years and that at the relevant time Mr. Daftari was the Branch Manager first party's Botad Branch. He also admitted the contents of his Affidavit produced vide Mark 29/1 and identifies his signature. He also stated that in First Party/LIC, names for employment are called for from the Employment exchange and interviews are taken, then medical examination is done and panel list is prepared. From that final list prepared after screening and interview, appointment is being made from the final list as prepared by the authorities. He lastly in his examination in chief stated that in the case of the second party, such procedure was not followed. In his cross-examination, he has admitted that the second party worked as a temporary sweeper in Botad branch. He has also stated that the duty hours of temporary peon is from 10:30 to 5:30 and temporary sweeper is from 10:30 to 12:30 i.e. 2 hours. He has denied rest of the suggestions made by the other side in the cross examination.

5. The Second party has produced various documents vide Ex – 19 list which include notice sent by the second party dated 09.05.1990 and Postal Acknowledgement Receipt. The first party has produced documents vide List at Ex. 29 and submitted copy of Affidavit of Mr. Daftari which was filed during in conciliation proceedings. Both the parties have closed their evidence and the second party has also submitted its written arguments in the matter. The first party has chosen to make oral submissions in the matter.

6. On going through the pleadings, arguments, documentary as well as oral evidence the following issues arise for my consideration.

Issues

I. Whether the second party was working as a peon cum sweeper with the first party?

II. Whether the second party was appointed after following the due process of law on a permanent post?

III. Whether the second party was terminated illegally and considering the facts of the case, whether he is entitled to any relief as prayed for?

Issue No. I

Since all the issues are interrelated, the same are discussed and decided together.

6.1 It is the case of second party as per the statement of claims and oral evidence that he was working as a peon as well as sweeper. On the other hand, the witness of the first party in the cross examination has stated that the second party was working as a part time sweeper and duty hours were 10:30 to 12:30 i.e. 2 hours. As against the same, the second party in the written submissions at page 5 has also relied upon the same to substantiate that he had been working continuously as a sweeper with the first party. Moreover, as far as working continuously for the period in question is concerned, the witness has stated that the witness is not aware of the same. The second party has also not produced any documentary evidence to show that he was working as a peon as well as sweeper and therefore considering the material on record, it can be safely observed that the second party was working as a sweeper as admitted to both the parties. Thus the present issue is decided accordingly.

Issue No. II

6.2 The case of the second party is that he was working on a permanent post during the tenure. Now in this regard, the first party has in detail mentioned it in the written statement as well as affidavit submitted before the Assistant Labour Commissioner in conciliation proceedings. Moreover, the second party has fairly admitted in the cross examination that recruitment in First Party/LIC are being done after calling the names from the employment exchange and that in his case, the said process was not followed. Moreover, the FP's witness has also explained that entire process in his chief examination regarding calling names, interview, medical examination, panel list etc. No cross examination is done on this aspect in the matter by the second party workman. Even otherwise, as LIC is a State under Article 12, no appointment can be made without following the due process. Admittedly such process is not followed in the case of the second party. The second party has also stated that he does not have any proof of him working since 18.01.1988. In case of a permanent employee, he would be issued an Appointment letter, I-card, termination letter, salary slips etc. While the second party has admitted that he does not have any such proofs at all. On the other hand, he was only working as a temporary part time sweeper and his duty hours were only 2 hours and he was paid accordingly. Thus the second party was not working on a permanent post and he was not appointed after following the due process of law.

Issue No. III

6.3 Now it is established that the second party was appointed on a temporary basis as a part time sweeper and that he was not appointed after following the due process of law on a permanent post. The case of the second party is that he was terminated illegally and that juniors were retained and that new persons were appointed. The second party does not have not even given names of persons who were junior to him and were retained nor has the second party given the names of persons who were appointed after discontinuation of his services. Moreover, the case of the first party is that he was appointed on a temporary and ad-hoc basis for doing part time work. The second party has also in cross examination admitted that he was appointed on ad-hoc basis. Moreover the second party has not produced any proof to substantiate that he had worked for 240 days prior to his alleged termination. The onus to prove that the workman had worked for 240 days is on the workman and not the employer. In the present case, the workman has failed to prove the same. The burden can neither be shifted upon the employer to prove the negative. The second party has failed to prove the same in the present case. As per the ratio laid down by the Hon'ble Supreme Court in case of Surendranagar District Panchayat versus Dahyabhai Amarshibhai reported in 2006 (108) FLR 193, as well as in case of Batala Cooperative Sugar Mills Limited versus Sowaran Singh reported in 2006(1) CLR 23, the burden to prove having worked for 240 days is on the workman.

7. The second party also relied upon judgment in case of Jasmer Singh V/S State of Haryana, 2015 Law Suit SC32. In the said case, the workman had proved that he had worked for more than 240 days which has not been not proved in the present case. The second party has also relied upon judgment in case of Devindersingh v/s Municipal Council, Sanpur, (2011) SCC 584. In the said case, the workman was appointed on a consolidated salary on contract basis while in the present case the second party has worked only for a few months on ad-hoc /temporary basis and that

too for 2 hours only. The second party has also relied upon other authorities but considering the facts of the present case i.e. part time ad-hoc temporary engagement as a sweeper and that too 30 years back, the same are not helpful to the second party.

8. On the other hand, the first party has relied upon the judgment of the Hon'ble Apex court in case of State of Bihar & ors. Vs. Chandreshwar Pathak, 2014(III)CLR3 wherein the Hon'ble Apex Court has held that temporary appointments do not confer any right on appointees and that if appointments made without following due process, the court cannot grant any benefits like absorption, regularization or reengagement.

9. Secondly, the First party has relied upon judgment of Division Bench of Hon'ble Gujarat High Court in case of Halvad Nagarpalika v/s Jni Deepakbhai Chandravadanbhai (2003)2 GHJ397 wherein also the Hon'ble Court has held that in case of employees appointed without following the due process of law, the provisions of Sec. 25-F cannot be invoked and it is immaterial on whether the workman has completed 240 days or not.

10. Thirdly, the Hon'ble Apex Court in case of Himanshukumar Vidyarthi V/s State of Bihar (1997)4 SC (C) 391 has held that disengagement of temporary employees appointed without following the due process of law cannot be termed as retrenchment under the I.D. Act and held that they have not right to any post and their disengagement is not arbitrary.

11. The first party has also relied upon Judgment of the Hon'ble Gujarat High Court in case of Bantva Municipality V/s Manjulaben Arvindbhai Cholera, Special Civil Application No. 3137 of 2013 wherein the Hon'ble Court has discussed all the judgments till date and laid down some principles in order to decide the nature of relief that can be granted. The relevant aspects enunciated are, persons not holding permanent post, span of employment, manner and method of appointment, time gap from the date of termination, delay in raising the reference etc. In the said case, the workman was paid Rs. 400/- p.m. and worked for about 2 years. In the present case, it is the case of the second party that he has worked for 1 year and was paid Rs. 265/-p.m. Moreover, the discontinuation dates back to 1989. The second party also did not do anything for 1.25 years after discontinuation. Almost 30 years have passed since the date of cause of action. Lastly, the second party was working only as part time sweeper for 2 hours. He has also admitted in his cross that he does labour work and provides for house hold expense which was around Rs. 2500 – 3000/- per month.

12. Thus considering the ratio laid down by the Hon'ble Courts as well as peculiar facts of this case, this tribunal is of the opinion that the workman does not have any claim to be reinstated with back wages. But this is a case where grant of lump-sum compensation will suffice the justice. In the above case, the Hon'ble court had granted compensation of Rs. 30000/- for 2 years of service and last pay of Rs. 400/- p.m. while in the present case, the second party has worked for 1 year and was paid Rs. 265/- p.m. However, considering the pendency of the case and the fact that the said judgment is of 2014, it will be appropriate if the workman is awarded Rs. 40,000/-towards lump-sum compensation in lieu of reinstatement and back wages of any other relief. The said amount be paid by the First party within 60 days of publication of the Award.

13. The Award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

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